

SENATE BILL No. 317

By Committee on Ways and Means

3-16

9 AN ACT abolishing the Kansas technology enterprise corporation and
10 transferring the powers and duties thereof to the department of com-
11 merce and the board of regents; amending K.S.A. 74-5001a, 74-8102,
12 74-8103, 74-8106, 74-8107, 74-8108, 74-8109, 74-8110, 74-8111, 74-
13 8316, 74-8317, 74-8318, 74-8319, 74-8401, 75-2935b, 75-3208 and 76-
14 770 and K.S.A. 2008 Supp. 74-520a, 74-5005, 74-50,133, 74-50,151,
15 74-50,156, 74-8101, 74-8104, 74-8131, 74-8132, 74-8133, 74-8134, 74-
16 8135, 74-8136, 74-99b03, 74-99b04, 74-99b09, 74-99b63, 74-99b66,
17 74-99c03 and 75-2935 and repealing the existing sections; also repeal-
18 ing K.S.A. 74-5050 and 74-8105.

19

20 *Be it enacted by the Legislature of the State of Kansas:*

21 New Section 1. Except as otherwise provided in sections 4 through
22 6, and amendments thereto:

23 (a) All of the powers, duties and functions of the Kansas technology
24 enterprise corporation are hereby transferred to and conferred and im-
25 posed upon the department of commerce and the secretary of commerce.

26 (b) The director of accounts and reports shall transfer all balances for
27 all funds or accounts thereof appropriated or reappropriated for the Kan-
28 sas technology enterprise corporation to the department of commerce.

29 (c) All liabilities of the Kansas technology enterprise corporation, in-
30 cluding accrued compensation or salaries of officers and employees who
31 are transferred to the department of commerce under this section shall
32 be assumed and paid by the department of commerce.

33 New Sec. 2. Except as otherwise provided in sections 4 through 6,
34 and amendments thereto:

35 (a) The department of commerce shall be the successor in every way
36 to the powers, duties and functions of the Kansas technology enterprise
37 corporation in which the same were vested prior to the effective date of
38 this section and that are transferred pursuant to section 1, and amend-
39 ments thereto. Every act performed in the exercise of such transferred
40 powers, duties and functions by or under the department of commerce
41 pursuant to section 1, and amendments thereto, shall be deemed to have
42 the same force and effect as if performed by the Kansas technology en-
43 terprise corporation in which such powers, duties and functions were

- 1 vested prior to the effective date of this section.
- 2 (b) Whenever the Kansas technology enterprise corporation, or
3 words of like effect, are referred to or designated by a statute, contract
4 or other document and such reference is in regard to any of the powers,
5 duties or functions transferred to the department of commerce pursuant
6 to section 1, and amendments thereto, such reference or designation shall
7 be deemed to apply to the department of commerce.
- 8 (c) All rules and regulations, orders and directives of the Kansas tech-
9 nology enterprise corporation which are in effect on the effective date of
10 this section shall continue to be effective and shall be deemed to be rules
11 and regulations, orders and directives of the department of commerce
12 until revised, amended, revoked or nullified pursuant to law.
- 13 (d) The department of commerce shall have the legal custody of all
14 records, memoranda, writings, entries, prints, representations, electronic
15 data or combinations thereof of any act, transaction, occurrence or event
16 of the Kansas technology enterprise corporation.
- 17 New Sec. 3. (a) When any conflict arises as to the disposition of any
18 property, power, duty or function or the unexpended balance of any ap-
19 propriation as a result of any abolition or transfer made by or under
20 section 1, and amendments thereto, shall be resolved by the governor,
21 whose decision shall be final.
- 22 (b) The department of commerce shall succeed to all property, prop-
23 erty rights and records which were used for or pertain to the performance
24 of powers, duties and functions transferred to the department of com-
25 merce pursuant to section 1, and amendments thereto. Any conflict as to
26 the proper disposition of property, personnel or records arising under this
27 section or sections 1 or 2, and amendments thereto, shall be determined
28 by the governor, whose decision shall be final.
- 29 New Sec. 4. (a) The following powers, duties and functions of the
30 Kansas technology enterprise corporation are hereby transferred to and
31 conferred and imposed upon the board of regents:
- 32 (1) All powers, duties and functions under K.S.A. 74-8106, and
33 amendments thereto, relating to the centers of excellence established
34 under K.S.A. 74-8106, and amendments thereto;
- 35 (2) all powers, duties and functions under K.S.A. 74-8102 through
36 74-8111, and amendments thereto, relating to the strategic technology
37 and research (STAR) fund; and
- 38 (3) all powers, duties and functions under K.S.A. 74-8102 through
39 74-8111, and amendments thereto, relating to the experimental program
40 to stimulate competitive research (EPSCoR).
- 41 (b) The director of accounts and reports shall transfer all balances for
42 all funds or accounts thereof appropriated or reappropriated for the Kan-
43 sas technology enterprise corporation relating to the powers, duties and

1 functions transferred by this section to the board of regents.

2 (c) All liabilities of the Kansas technology enterprise corporation re-
3 lating to the powers, duties and functions transferred by this section,
4 including accrued compensation or salaries of officers and employees who
5 are transferred to the board of regents under this section shall be assumed
6 and paid by the board of regents.

7 New Sec. 5. (a) The board of regents shall be the successor in every
8 way to the powers, duties and functions of the Kansas technology enter-
9 prise corporation in which the same were vested prior to the effective
10 date of this section and that are transferred pursuant to section 4, and
11 amendments thereto. Every act performed in the exercise of such trans-
12 ferred powers, duties and functions by or under the board of regents
13 pursuant to section 4, and amendments thereto, shall be deemed to have
14 the same force and effect as if performed by the Kansas technology en-
15 terprise corporation in which such powers, duties and functions were
16 vested prior to the effective date of this section.

17 (b) Whenever the Kansas technology enterprise corporation, or
18 words of like effect, are referred to or designated by a statute, contract
19 or other document and such reference is in regard to any of the powers,
20 duties or functions transferred to the board of regents pursuant to section
21 4, and amendments thereto, such reference or designation shall be
22 deemed to apply to the board of regents.

23 (c) All rules and regulations, orders and directives of the Kansas tech-
24 nology enterprise corporation which relate to the powers, duties and func-
25 tions transferred by section 4, and amendments thereto, and which are
26 in effect on the effective date of this section shall continue to be effective
27 and shall be deemed to be rules and regulations, orders and directives of
28 the board of regents until revised, amended, revoked or nullified pursuant
29 to law.

30 (d) The board of regents shall have the legal custody of all records,
31 memoranda, writings, entries, prints, representations, electronic data or
32 combinations thereof of any act, transaction, occurrence or event of the
33 Kansas technology enterprise corporation relating to the powers, duties
34 and functions transferred by section 4, and amendments thereto.

35 New Sec. 6. (a) When any conflict arises as to the disposition of any
36 property, power, duty or function or the unexpended balance of any ap-
37 propriation as a result of any abolition or transfer made by or under
38 section 4, and amendments thereto, shall be resolved by the governor,
39 whose decision shall be final.

40 (b) The board of regents shall succeed to all property, property rights
41 and records which were used for or pertain to the performance of powers,
42 duties and functions transferred to the board of regents pursuant to sec-
43 tion 4, and amendments thereto. Any conflict as to the proper disposition

1 of property, personnel or records arising under this section or sections 4
2 or 5, and amendments thereto, shall be determined by the governor,
3 whose decision shall be final.

4 New Sec. 7. The Kansas technology enterprise corporation is hereby
5 abolished.

6 New Sec. 8. (a) No suit, action or other proceeding, judicial or ad-
7 ministrative, lawfully commenced, or which could have been commenced,
8 by or against any state agency or program mentioned in sections 1 through
9 6, and amendments thereto, or by or against any officer of the state in
10 such officer's official capacity or in relation to the discharge of such of-
11 ficer's official duties, shall abate by reason of the governmental reorgan-
12 ization effected under the provisions of sections 1 through 6, and amend-
13 ments thereto. The court may allow any such suit, action or other
14 proceeding to be maintained by or against the successor of any such state
15 agency or any officer affected.

16 (b) No criminal action commenced or which could have been com-
17 menced by the state shall abate by the taking effect of this section.

18 Sec. 9. K.S.A. 2008 Supp. 74-520a is hereby amended to read as
19 follows: 74-520a. (a) On and after March 15, 1995, the Kansas state fair
20 board is hereby established. The Kansas state fair board shall consist of
21 the following members:

22 (1) The secretary of agriculture or the successor of the secretary of
23 agriculture, or the secretary's designee;

24 (2) the secretary of commerce, or the secretary's designee;

25 (3) the director of extension of Kansas state university of agriculture
26 and applied science, or the director's designee;

27 (4) one person appointed by the governor from three persons nom-
28 inated by the Kansas chamber of commerce and industry;

29 (5) one person appointed by the governor from three persons nom-
30 inated by the travel industry association of Kansas;

31 (6) one person appointed by the governor from three persons nom-
32 inated by the Kansas fairs association;

33 ~~(7) one person appointed by the Kansas technology enterprise cor-
34 poration from among the board of directors of the Kansas technology
35 enterprise corporation, and~~

36 ~~(8) six seven~~ people from the general public appointed by the gov-
37 ernor. Of such people appointed, one shall be from each of the five ex-
38 tension areas, as established in subsection (e), and ~~one~~ two shall represent
39 the state at large. Directors of each extension area shall submit three
40 nominations to the governor. Such persons nominated shall be actively
41 involved in agriculture production or agribusiness.

42 (b) Of the persons initially appointed by the governor under subsec-
43 tion (a), three shall have a term of one year, three shall have a term of

1 two years and three shall have a term of three years and until a successor
2 is appointed and qualified. Thereafter, all members shall have terms of
3 three years and until a successor is appointed and qualified.

4 (c) Any vacancy occurring on the Kansas state fair board shall be filled
5 as the original appointment was made.

6 (d) If any of the members able to appoint a designee does so, the
7 designee shall be appointed for a term of not less than one year.

8 (e) For the purpose of this section the state shall be divided into five
9 extension areas. The northwest extension area shall include the following
10 counties: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Osborne,
11 Rooks, Graham, Sheridan, Thomas, Sherman, Wallace, Logan, Gove,
12 Trego, Ellis, Russell, Barton, Rush and Ness. The southwest extension
13 area shall include the following counties: Greeley, Wichita, Scott, Lane,
14 Pawnee, Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray,
15 Haskell, Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Co-
16 manche and Kiowa. The south central extension area shall include the
17 following counties: Lincoln, Ottawa, Dickinson, Ellsworth, Saline, Rice,
18 McPherson, Marion, Reno, Harvey, Butler, Kingman, Sedgwick, Cowley,
19 Sumner, Harper, Barber, Pratt and Stafford. The southeast extension area
20 shall include the following counties: Morris, Chase, Lyon, Osage, Frank-
21 lin, Miami, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Green-
22 wood, Elk, Wilson, Neosho, Crawford, Chautauqua, Montgomery, La-
23 bette and Cherokee. The northeast extension area shall include the
24 following counties: Jewell, Republic, Washington, Marshall, Nemaha,
25 Brown, Doniphan, Mitchell, Cloud, Clay, Riley, Pottawatomie, Jackson,
26 Atchison, Jefferson, Leavenworth, Wyandotte, Johnson, Douglas, Shaw-
27 nee, Wabaunsee and Geary.

28 Sec. 10. K.S.A. 74-5001a is hereby amended to read as follows: 74-
29 5001a. The purpose of the department of commerce shall be to develop
30 and implement strategies to:

31 (a) Facilitate the growth, diversification and expansion of existing en-
32 terprises and the creation by Kansans of new wealth-generating
33 enterprises;

34 (b) promote economic diversification and innovation within the basic
35 industries and sectors of the state;

36 (c) promote increased productivity and value added products, pro-
37 cesses and services among wealth-generating enterprises, and the export
38 of those goods and services created by small and large Kansas enterprises
39 to the nation and world;

40 (d) maintain and revitalize economically depressed rural areas and
41 urban neighborhoods by annually targeting scarce resources by size, sec-
42 tor and location to communities and enterprises of particular need and
43 opportunity, and by working in close collaboration with local

1 communities;

2 (e) protect and enhance the environmental quality of the state in ways
3 consistent with dynamic economic growth; and

4 (f) forge a supportive partnership with the standing committee on
5 commerce of the senate, the standing committee on economic develop-
6 ment *and tourism* of the house of representatives and the joint committee
7 on economic development, Kansas, Inc., ~~the Kansas technology enter-~~
8 ~~prise corporation~~, Kansas venture capital, Inc., Kansas certified devel-
9 opment companies, Kansas small business development centers, Kansas
10 public and private educational institutions, and other appropriate private
11 and public sector organizations in achieving the economic goals of the
12 state.

13 Sec. 11. K.S.A. 2008 Supp. 74-5005 is hereby amended to read as
14 follows: 74-5005. The department shall be the lead agency of the state
15 for economic development of commerce through the promotion of busi-
16 ness, industry, trade and tourism within the state. In general, but not by
17 way of limitation, the department shall have, exercise and perform the
18 following powers and duties:

19 (a) To assume central responsibility for implementing all facets of a
20 comprehensive, long-term, economic development strategy and for co-
21 ordinating the efforts of both state agencies and local economic devel-
22 opment groups as they relate to that objective;

23 (b) to coordinate the implementation of the strategy with all other
24 state and local agencies and offices and state educational institutions
25 which do research work, develop materials and programs, gather statistics,
26 or which perform functions related to economic development; and such
27 state and local agencies and offices and state educational institutions shall
28 advise and cooperate with the department in the planning and accom-
29 plishment of the purposes of this act;

30 (c) to advise and cooperate with all federal departments, research
31 institutions, educational institutions and agencies, quasi-public profes-
32 sional societies, private business and agricultural organizations and asso-
33 ciations, and any other party, public or private, and to call upon such
34 parties for consultation, and assistance in their respective fields of inter-
35 est, to the end that all up to date available technical advice, information
36 and assistance be gathered for the use of the department, the governor,
37 the legislature, and the people of this state;

38 (d) to enter into agreements necessary to carry out the purposes of
39 this act;

40 (e) to conduct an effective business information service, keeping up
41 to date information on such things as manufacturing industries, labor
42 supply and economic trends in employment, income, savings and pur-
43 chasing power within the state, utilizing the services and information

- 1 available from the division of the budget of the department of
2 administration;
- 3 (f) to support a coordinated program of scientific and industrial re-
4 search with the objective of developing additional uses of the state's nat-
5 ural resources, agriculture, agricultural products, new and better indus-
6 trial products and processes, and the best possible utilization of the raw
7 materials in the state; and to coordinate this responsibility with the state
8 educational institutions, with all state and federal agencies, and all public
9 and private institutions within or outside the state, all in an effort to assist
10 and encourage new industries or expansion of existing industries through
11 basic research, applied research and new development;
- 12 (g) to maintain and keep current all available information regarding
13 the industrial opportunities and possibilities of the state, including raw
14 materials and by-products; power and water resources; transportation fa-
15 cilities; available markets and the marketing limitations of the state; labor
16 supply; banking and financing facilities; availability of industrial sites; and
17 the advantages the state and its particular sections have as industrial lo-
18 cations; and such information shall be used for the encouragement of new
19 industries in the state and the expansion of existing industries within the
20 state;
- 21 (h) to publicize information and the economic advantages of the state
22 which make it a desirable place for commercial and industrial operations
23 and as a good place in which to live;
- 24 (i) to establish a clearinghouse for the collection and dissemination
25 of information concerning the number and location of public and private
26 postsecondary vocational and technical education programs in areas crit-
27 ical to economic development;
- 28 (j) to acquaint the people of this state with the industries within the
29 state and encourage closer cooperation between the farming, commercial
30 and industrial enterprises and the people of the state;
- 31 (k) to encourage and promote the traveling public to visit this state
32 by publicizing information as to the recreational, historic and natural ad-
33 vantages of the state and its facilities for transient travel and to contract
34 with organizations for the purpose of promoting tourism within the state;
35 and the department may request other state agencies such as, but not
36 limited to, the Kansas water office, the Kansas department of wildlife and
37 parks and the department of transportation, for assistance and all such
38 agencies shall coordinate information and their respective efforts with the
39 department to most efficiently and economically carry out the purpose
40 and intent of this subsection;
- 41 (l) to participate in economic development and planning assistance
42 programs of the federal government to political subdivisions;
- 43 (m) to assist counties and cities in industrial development through

1 the establishment of industrial development corporations, including site
2 surveys, small business administration situations, and render such other
3 similar assistance as may be required; and in those instances where it is
4 deemed appropriate, to contract with and make a service charge to the
5 county or city involved for such services rendered;

6 (n) to render assistance to private enterprise on planning problems
7 and site surveys upon request and shall make a reasonable service charge
8 for such services rendered; and any moneys received for services ren-
9 dered, as provided in this subsection, shall be deposited in the fund and
10 expended therefrom, as provided in subsection (o);

11 (o) to make agreements with other states and with the United States
12 government, or its agencies, and to accept funds from the federal gov-
13 ernment, or its agencies, or any other source for research studies, inves-
14 tigation, planning and other purposes related to the duties of the depart-
15 ment; and any funds so received shall be remitted to the state treasurer
16 in accordance with the provisions of K.S.A. 75-4215, and amendments
17 thereto. Upon receipt of each such remittance, the state treasurer shall
18 deposit the entire amount in the state treasury to the credit of a special
19 revenue fund which is hereby created and shall be known as the “eco-
20 nomic development fund” or used in accordance with or direction of the
21 contributing federal agencies; and expenditures from such fund may be
22 made for any purpose in keeping with the responsibilities, functions and
23 authority of the department; and warrants on such fund shall be drawn
24 in the same manner as required of other state agencies upon vouchers
25 signed by the secretary;

26 (p) to do other and further acts as shall be necessary and proper in
27 fostering and promoting the industrial development and economic wel-
28 fare of the state;

29 (q) to organize, or cause to be organized, an advisory board or boards
30 representing interested groups, including industry, labor, agriculture, sci-
31 entific research, the press, the professions, industrial associations, civic
32 groups, etc.; and such board or boards shall advise with the department
33 as to its work and the department shall, as far as practicable, cooperate
34 with such board or boards, and secure the active aid thereof in the ac-
35 complishment of the aims and objectives of the department;

36 (r) to perform the duties imposed under the Kansas venture capital
37 company act;

38 (s) to serve as the central agency and clearinghouse to collect and
39 disseminate ideas and information bearing on local planning problems;
40 and, in so doing, the department, upon request of the board of county
41 commissioners of any county or the governing body of any city in the
42 state, may make a study and report upon any planning problem of such
43 county or city submitted to it;

1 (t) to disseminate to the public information concerning economic de-
2 velopment programs available in the state, regardless of whether such
3 programs are administered by the department or some other agency and
4 the department shall make available audio-visual and written materials
5 describing the economic development programs to local chambers of
6 commerce, economic development organizations, banks and public li-
7 braries and shall take other measures as may be necessary to effectuate
8 the purpose of this subsection; ~~and~~

9 (u) to perform the duties imposed under the individual development
10 account program act, K.S.A. 2008 Supp. 74-50,201 through 74-50,208,
11 and amendments thereto; *and*

12 (v) *except as otherwise provided by law, to perform the duties and*
13 *carry out the purposes set forth in K.S.A. 74-8101 through 74-8104 and*
14 *74-8107 through 74-8111, and amendments thereto.*

15 Sec. 12. K.S.A. 2008 Supp. 74-50,133 is hereby amended to read as
16 follows: 74-50,133. There is hereby created within the department of
17 commerce the “high performance incentive fund” to provide matching
18 funds for business assistance and consulting services to qualified firms
19 under the provisions of K.S.A. 74-50,131 that are entitled to a workforce
20 training tax credit under the provisions of K.S.A. 74-50,132 or have re-
21 ceived written approval for and are participating, at the time the funds
22 are sought, in the Kansas industrial training, Kansas industrial retraining
23 or state of Kansas investments in lifelong learning program, subject to
24 appropriation of funds and program criteria, as hereinafter provided. The
25 department of commerce may provide funds to qualified firms, on a
26 matching basis, to pay up to 50% of such firm’s costs of acquiring con-
27 sulting services provided by the mid-America manufacturing technology
28 center, or approved private consultants to assist in improving the firm’s
29 management, production processes or product or service quality. Quali-
30 fied firms also shall receive priority consideration for any other business
31 assistance programs administered by the department of commerce, ~~the~~
32 ~~Kansas technology enterprise corporation and the mid-America manu-~~
33 ~~facturing technology center.~~

34 Sec. 13. K.S.A. 2008 Supp. 74-50,151 is hereby amended to read as
35 follows: 74-50,151. (a) There is hereby created in the state treasury the
36 Kansas economic opportunity initiatives fund. Subject to acts of the leg-
37 islature applicable thereto, the moneys in the Kansas economic oppor-
38 tunity initiatives fund shall be used only for the purposes prescribed by
39 this section.

40 (b) All expenditures made pursuant to this act shall be made in ac-
41 cordance with appropriations acts upon warrants of the director of ac-
42 counts and reports issued pursuant to vouchers approved by the governor
43 or the governor’s designee. The governor may approve a warrant upon

1 certification, by the secretary of commerce, that an economic emergency
2 or unique opportunity exists which warrant funding for a strategic eco-
3 nomic intervention by such state agency or agencies to address expenses
4 involved in securing economic benefits or avoiding or remedying eco-
5 nomic losses related to:

- 6 (1) A major expansion of an existing Kansas commercial enterprise;
- 7 (2) the potential location in Kansas of the operations of a major
8 employer;
- 9 (3) the award of a significant federal or private sector grant which has
10 a financial matching requirement;
- 11 (4) the departure from Kansas or the substantial reduction of the
12 operations of a major employer; and
- 13 (5) the closure or the substantial reduction of a major federal or state
14 institution or facility.

15 (c) An intervention strategy may include financial assistance in the
16 form of grants, loans or both. The department of commerce shall adopt
17 written guidelines concerning the terms and conditions of any such loans.
18 However, all repaid funds shall be credited to the Kansas economic op-
19 portunity initiatives fund. No intervention strategy approved pursuant to
20 this act shall facilitate the moving of an existing Kansas firm to another
21 location within the state unless such restriction is waived by the secretary
22 of commerce. Every intervention strategy approved pursuant to this act
23 shall identify the intended outcomes to be realized by the strategy for
24 which funding is sought.

25 (d) The department of commerce and Kansas, Inc. shall make joint
26 findings concerning the costs and benefits, on both a local and statewide
27 basis, of projects proposed pursuant to this act. Prior to allocation of any
28 funds pursuant to this act, the governor shall review the cost-benefit find-
29 ings performed on each project.

30 (e) The director of the budget and the director of the legislative re-
31 search department shall consult periodically and review the balance cred-
32 ited to and the estimated receipts to be credited to the state economic
33 development initiatives fund during the fiscal year. During any period
34 when the legislature is not in session, upon a finding by the director of
35 the budget in consultation with the director of the legislative research
36 department that the total of the unencumbered balance and estimated
37 receipts to be credited to the state economic development initiatives fund
38 during a fiscal year are insufficient to fund the budgeted expenditures
39 and transfers from the state economic development initiatives fund for
40 the fiscal year in accordance with the provisions of appropriation acts, the
41 director of the budget shall make a certification of such finding to the
42 governor. Upon approval by the governor, the director of accounts and
43 reports shall transfer the amount of moneys from the Kansas economic

1 opportunity initiatives fund to the state economic development initiatives
2 fund that is required, in accordance with a certification by the director
3 of the budget under this subsection, to fund the budgeted expenditures
4 and transfers from the state economic development initiatives fund for
5 the fiscal year in accordance with the provisions of appropriation acts, as
6 specified by the director of the budget pursuant to such certification.

7 (f) On or before the 10th day of each month, the director of accounts
8 and reports shall transfer from the state general fund to the state eco-
9 nomic development initiatives fund interest earnings based on:

10 (1) The average daily balance of moneys in the Kansas economic op-
11 portunity initiatives fund for the preceding month; and

12 (2) the net earnings rate for the pooled money investment portfolio
13 for the preceding month.

14 (g) A ~~five three~~ member panel consisting of the secretary of com-
15 merce, the president of Kansas, Inc., ~~the president of the Kansas tech-~~
16 ~~nology enterprise corporation,~~ and the private sector chairperson of the
17 board of Kansas, Inc., ~~and the private sector chairperson of the Kansas~~
18 ~~technology enterprise corporation~~ shall review annually the propriety of
19 projects funded under this section. The panel shall report its findings in
20 writing to the governor, the ~~new economy~~ *committee on economic de-*
21 *velopment and tourism* of the house of representatives, the senate com-
22 merce committee and the joint committee on economic development.
23 The report to the ~~new economy~~ *committee on economic development and*
24 *tourism* of the house of representatives, the commerce committee of the
25 senate and the joint committee on economic development under this
26 subsection shall be made either (1) by the panel by publishing such report
27 on the internet and by notifying each member of the committees that the
28 report is available and providing, as part of such notice, the uniform re-
29 source locator (URL) at which such report is available, or (2) by submit-
30 ting copies of such report on CD-ROM or other electronically readable
31 media to such committees.

32 Sec. 14. K.S.A. 2008 Supp. 74-50,156 is hereby amended to read as
33 follows: 74-50,156. (a) There is hereby established within and as a part
34 of the department of commerce the agriculture products development
35 division. The secretary of commerce shall appoint a director of such di-
36 vision and such director shall be in the unclassified service of the Kansas
37 civil service act. Subject to and in accordance with appropriations acts,
38 the agriculture products development division shall include: (1) All pow-
39 ers, duties and functions related to the agricultural value added center
40 pursuant to subsections (b) and (c); (2) all powers and duties created
41 regarding the division of markets pursuant to K.S.A. 74-530, and amend-
42 ments thereto, which are hereby transferred; (3) all powers and duties
43 created regarding registered trademarks pursuant to K.S.A. 74-540a, and

1 amendments thereto, which are hereby transferred; (4) all powers and
2 duties regarding the trademark fund pursuant to K.S.A. 74-540b, and
3 amendments thereto, which are hereby transferred; and (5) all powers
4 and duties created regarding expenditures and moneys credited to the
5 market development fund pursuant to K.S.A. 74-540c, and amendments
6 thereto, which are hereby transferred.

7 (b) The objectives of the agricultural value added center within the
8 agriculture products development division shall include, but not be lim-
9 ited to, providing technical assistance to existing and potential value added
10 facilities, including incubator facilities; developing a network for collect-
11 ing and distributing information to individuals involved in value added
12 processing in Kansas; initiating pilot plant facilities to act as research and
13 development laboratories for existing and potential small scale value
14 added processing endeavors in Kansas; providing technical assistance to
15 new agricultural value added businesses; developing and promoting com-
16 munication and cooperation among private businesses; state government
17 agencies and public and private colleges and universities in Kansas; es-
18 tablishing research and development programs in technologies that have
19 value added commercial potential for food and nonfood agricultural prod-
20 ucts achieving substantial and sustainable continuing growth for the Kan-
21 sas economy through value added products from agriculture; serving as
22 a catalyst for industrial agriculture through technological innovation in
23 order to expand economic opportunity for all Kansas communities; estab-
24 lishing an industrial agriculture industry for the state of Kansas; com-
25 mercializing the developed industrial agriculture technology in smaller
26 communities and the rural areas of Kansas; and developing investment
27 grade agriculture value added technologies and products.

28 (c) Subject to the provisions of appropriations acts, the functions of
29 the agricultural value added center within the agriculture products de-
30 velopment division shall include, but not be limited to, developing a mar-
31 ket referral program, matching distribution to buyers in coordination with
32 other state agencies concerned with marketing Kansas products; assisting
33 private entrepreneurs in the establishment of facilities and markets for
34 new agricultural value added endeavors; and introducing coordinated pro-
35 grams to develop marketing skills of existing agricultural value adding
36 processors in Kansas.

37 (d) (1) It shall be the duty of the agriculture products development
38 division to perform acts and to do, or cause to be done, those things which
39 are designed to lead to the more advantageous marketing of agricultural
40 products of Kansas. For these purposes the division may:

- 41 (A) Investigate the subject of marketing farm products;
- 42 (B) promote their sales distribution and merchandising;
- 43 (C) furnish information and assistance to the public;

1 (D) study and recommend efficient and economical methods of
2 marketing;

3 (E) provide for such studies and research as may be deemed neces-
4 sary and proper;

5 (F) gather and diffuse timely and useful information concerning the
6 supply, demand, prevailing prices and commercial movement of farm
7 products including quantity in common storage and cold storage, in co-
8 operation with other public or private agencies;

9 (G) conduct market development activities and assist and coordinate
10 participation by companies, commodity organizations, trade organiza-
11 tions, producer organizations and other interested organizations to de-
12 velop new markets and sales for Kansas agricultural commodities and food
13 products;

14 (H) render assistance to any of the entities listed in subsection (G)
15 and development activities and make a reasonable service charge for such
16 services rendered by the division; and

17 (I) make agreements with other states and with the United States
18 government, or its agencies, and accept funds from the federal govern-
19 ment, or its agencies, or any other source for research studies, investi-
20 gation, market development and other purposes related to the duties of
21 the division.

22 (2) The department of commerce shall remit all moneys received
23 under this subsection to the state treasurer in accordance with the pro-
24 visions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each
25 such remittance, the state treasurer shall deposit the entire amount in the
26 state treasury to the credit of the market development fund. All expend-
27 itures from such fund shall be made for any purpose consistent with this
28 subsection and shall be made in accordance with appropriation acts upon
29 warrants of the director of accounts and reports issued pursuant to vouch-
30 ers approved by the secretary of commerce or a person designated by the
31 secretary.

32 (e) (1) In conjunction with any trademark registered by the depart-
33 ment of commerce, the agriculture products development division is
34 hereby authorized to:

35 (A) Promulgate policy regarding the use of any such trademark;

36 (B) print, reproduce or use the trademark in or on educational, pro-
37 motional or other material;

38 (C) fix, charge and collect fees for the use of the trademark provided
39 that the fees shall be fixed in an amount necessary to recover all direct
40 costs associated with the production of educational, promotional and
41 other materials associated with a trademark program; and

42 (D) enter into any contracts necessary to carry out the purposes of
43 this subsection, which contracts shall not be subject to the bidding

1 requirements of K.S.A. 75-3739, and amendments thereto.

2 (2) The secretary of commerce shall remit all moneys received under
3 this subsection to the state treasurer in accordance with the provisions of
4 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
5 remittance, the state treasurer shall deposit the entire amount in the state
6 treasury to the credit of the trademark fund. All expenditures from such
7 fund shall be made for any purpose consistent with this subsection and
8 shall be made in accordance with appropriation acts upon warrants of the
9 director of accounts and reports issued pursuant to vouchers approved
10 by the secretary of commerce or a person designated by the secretary.

11 (f) On or before February 1 of each year, the agriculture products
12 development division shall present an oral and written report to the house
13 and senate agriculture committees concerning the performance indica-
14 tors, performance outcomes, activities and functions of the division for
15 the previous year. Such report shall include a budget of how moneys
16 appropriated or otherwise authorized to be expended from the state gen-
17 eral fund or any special revenue fund for the agriculture products devel-
18 opment division of the department of commerce for the previous fiscal
19 year were spent and a projected budget of moneys appropriated or oth-
20 erwise authorized to be expended from the state general fund or any
21 special revenue fund for the agriculture products development division
22 of the department of commerce for the current fiscal year. Such report
23 shall further include the full-time equivalent number of positions fi-
24 nanced from appropriations and allocated for the agriculture products
25 development division of the department of commerce for each fiscal year.
26 In the report to the 1997 legislature, the division's report shall include a
27 mission statement for the reorganized division.

28 ~~(g) Subject to appropriation acts, the secretary of commerce shall~~
29 ~~fulfill all contracts in existence on the effective date of this act between~~
30 ~~the Kansas technology enterprise corporation and the alternative agri-~~
31 ~~culture research and development center.~~

32 Sec. 15. K.S.A. 2008 Supp. 74-8101 is hereby amended to read as
33 follows: 74-8101. (a) There is hereby created a body politic and corporate
34 ~~to be known as~~ the Kansas technology enterprise corporation *board*. The
35 Kansas technology enterprise corporation *board* is hereby constituted a
36 public instrumentality and the exercise of the authority and powers con-
37 ferred by this act shall be deemed and held to be the performance of an
38 essential governmental function.

39 (b) The ~~corporation board~~ shall be governed by a ~~board~~ *consist* of 20
40 ~~directors members~~ who shall be residents of this state. The board shall
41 consist of (1) ~~the governor or, at the discretion of the governor,~~ the sec-
42 retary of the department of commerce, (2) the secretary of agriculture,
43 (3) four ~~directors members~~ who are members of the legislature appointed

1 as provided in subsection (d)(1), (4) four ~~directors~~ *members* who are ap-
2 pointed by legislative officers as provided in subsection (d)(2), and (5) ten
3 ~~directors~~ *members* appointed by the governor subject to senate confir-
4 mation as provided in K.S.A. 75-4315b, and amendments thereto. Except
5 as provided by K.S.A. 46-2601, and amendments thereto, no person
6 whose appointment is subject to confirmation by the senate, shall exercise
7 any power, duty or function as a member of the board until confirmed
8 by the senate.

9 (c) (1) All 10 of the ~~directors~~ *members* appointed by the governor
10 shall be persons recognized for outstanding knowledge and leadership in
11 their fields. Six of the ~~directors~~ *members* shall be persons from the private
12 sector and four shall be persons from the public sector. The four appoint-
13 ees from the public sector shall consist of one or more of the following:
14 Senior administrators at Kansas educational institutions governed by the
15 board of regents or engineers or scientists who have extensive experience
16 in managing basic or applied scientific and technological research. Of the
17 six ~~directors~~ *members* appointed from the private sector:

18 (A) Four ~~directors~~ *members* shall be persons who represent industries
19 of the Kansas economy including small enterprises which include, but are
20 not limited to:

- 21 (i) Resource-based industries of agriculture, oil and gas;
- 22 (ii) advanced technology industries of aviation, manufacturing, infor-
23 mation and design; and
- 24 (iii) emerging industries of telecommunications, computer software,
25 information services and research services; and

26 (B) two ~~directors~~ *members* shall be persons who represent the private
27 financial sector of whom one shall have experience in the area of high-
28 risk venture investments, and the other shall have commercial banking
29 experience in an industry of special technological importance to the Kan-
30 sas economy.

31 (2) In making appointments to the board, the governor shall give
32 consideration to the qualifications of the persons who served as commis-
33 sioners of the Kansas advanced technology commission and shall give
34 consideration to appropriate geographical representation.

35 (3) Of the members first appointed to the board, two ~~directors~~ *mem-*
36 *bers* shall be appointed for a term of one year, two ~~directors~~ *members*
37 shall be appointed for terms of two years, three ~~directors~~ *members* shall
38 be appointed for terms of three years and three ~~directors~~ *members* shall
39 be appointed for terms of four years. Except as provided by paragraph
40 (4), successors to such ~~directors~~ *members* shall be appointed for terms of
41 four years. Each ~~director~~ *member* shall hold office for the term of ap-
42 pointment and until the successor has been appointed and confirmed. In
43 the event of a vacancy, the vacancy shall be filled by the governor in the

1 manner provided for original appointments for the remainder of the unex-
2 pired portion of the term.

3 (4) The terms of ~~directors~~ *members* appointed pursuant to this sub-
4 section who are serving on the board on the effective date of this act shall
5 expire on January 15, of the year in which such member's term would
6 have expired under the provisions of this section prior to amendment by
7 this act. Thereafter, ~~directors~~ *members* shall be appointed for terms of
8 four years and until their successors are appointed and confirmed.

9 (d) (1) Four ~~directors~~ *members* shall be members of the legislature
10 as follows: The speaker of the house, the house minority leader, the pres-
11 ident of the senate, and the senate minority leader, or legislators who are
12 appointed to represent them and who will provide continuity by virtue of
13 their membership on the standing committee on commerce of the senate,
14 the standing committee on economic development *and tourism* of the
15 house of representatives or the joint committee on economic develop-
16 ment. Legislative officers designated in this subsection shall serve by vir-
17 tue of office. Legislators appointed under this subsection shall serve from
18 the dates of their appointment until the first day of the regular legislative
19 session in odd-numbered years and are eligible for reappointment.

20 (2) (A) Four ~~directors~~ *members* shall be appointed by legislative of-
21 ficers as follows: (1) One shall be appointed by the speaker of the house,
22 (2) one shall be appointed by the house minority leader, (3) one shall be
23 appointed by the president of the senate, and (4) one shall be appointed
24 by the senate minority leader. The members so appointed shall be persons
25 who are recognized for outstanding knowledge and leadership in their
26 fields, who are from the private sector and who represent industries of
27 the Kansas economy including small enterprises which include, but are
28 not limited to:

- 29 (i) Resource-based industries of agriculture, oil and gas;
30 (ii) advanced technology industries of aviation, manufacturing, infor-
31 mation and design; and
32 (iii) emerging industries of telecommunications, computer software,
33 information services and research services.

34 (B) Of the ~~directors~~ *members* first appointed by legislative officers
35 under this subsection (d)(2), the ~~directors~~ *members* appointed by the
36 speaker of the house and the president of the senate shall be appointed
37 to a term of four years and the ~~directors~~ *members* appointed by the house
38 minority leader and the senate minority leader shall be appointed to a
39 term of two years. Successors to such ~~directors~~ *members* shall be ap-
40 pointed for terms of four years. Each ~~director~~ *members* shall hold office
41 for the term of appointment and until the successor has been appointed.
42 In the event of a vacancy, the vacancy shall be filled by the legislative
43 officer who appointed the ~~director~~ *member* who created the vacancy in

1 the manner provided for the original appointment for the remainder of
2 the unexpired portion of the term.

3 (e) Members of the board of directors, in their dealings with enter-
4 prises that may receive financing through the ~~corporation~~ *department of*
5 *commerce*, shall declare any potential conflict of interest and abstain from
6 voting prior to taking any actions relating to that transaction.

7 ~~(f) The board of directors shall conduct a national search and select~~
8 ~~a corporate president who meets a national standard of experience, ability~~
9 ~~and initiative for similar positions. The corporate president shall not be~~
10 ~~a member of the board.~~

11 ~~(g) The board of directors shall hold all board meetings within the~~
12 ~~state of Kansas.~~

13 ~~(h) (g)~~ Members of the board of directors are entitled to compen-
14 sation and expenses as provided in K.S.A. 75-3223, and amendments
15 thereto.

16 ~~(i) (h)~~ The board shall annually elect from the private sector mem-
17 bership one member as chairperson and one member as vice-chairperson.

18 ~~(j) (i)~~ The board of directors shall meet at least once during each
19 calendar quarter, and at such other times as may be provided in the rules
20 of the corporation, upon call by the president, the chairperson or upon
21 written request of a majority of the ~~directors~~ *members*.

22 ~~(k) (j)~~ A majority of the board of directors shall be necessary to trans-
23 act ~~corporation board~~ business, and all actions of the ~~directors~~ *members*
24 shall be by a majority vote of the full number of ~~corporate directors~~
25 *members*.

26 ~~(l) (k)~~ The ~~directors~~ *members* shall establish an executive committee
27 composed of the chairperson, vice-chairperson and three additional mem-
28 bers chosen by the chairperson from among the remaining ~~directors~~ *mem-*
29 *bers*. The executive committee, in intervals between board meetings, may
30 transact any board business that has been delegated to the executive com-
31 mittee. A majority of the executive committee shall be necessary to trans-
32 act business and all actions of the executive committee shall be by a
33 majority vote of the committee.

34 ~~(m) (l)~~ No member of the board of directors is eligible to serve more
35 than two terms of office.

36 ~~(n) (m)~~ A member appointed to the board of directors by the gov-
37 ernor may be removed by the governor for cause, stated in writing, after
38 a hearing thereon.

39 (n) *All investments and grant awards to be made by the department*
40 *of commerce pursuant to K.S.A. 74-8101 through 74-8104 and 74-8107*
41 *through 74-8111, and amendments thereto, shall first be considered by*
42 *the board. The board shall submit a recommendation regarding each in-*
43 *vestment and grant award to the secretary of commerce. The board's*

1 *recommendation shall be considered by the secretary in making the final*
2 *determination.*

3 Sec. 16. K.S.A. 74-8102 is hereby amended to read as follows: 74-
4 8102. (a) The purpose of ~~the Kansas technology enterprise corporation~~
5 *K.S.A. 74-8101 through 74-8104 and 74-8107 through 74-8111, and*
6 *amendments thereto*, is to foster innovation in existing and developing
7 businesses, especially the creation, growth and expansion of Kansas en-
8 terprises in a diversified range of primary sectors, which develop value-
9 added products, processes and services including, but not limited to:

10 (1) Existing resource-based industries of agriculture, oil, gas, coal and
11 helium;

12 (2) existing advanced technology industries of aviation, pharmaceu-
13 ticals, computers and electronics; and

14 (3) emerging industries of telecommunications, computer software,
15 information services and research services.

16 (b) ~~The corporation~~ *department of commerce* shall achieve the pur-
17 pose stated in subsection (a) of this section by:

18 (1) Financing basic research, applied research and development, and
19 technology transfer at Kansas educational institutions which meet com-
20 petitive standards of excellence as measured by national and international
21 peers, and which create innovative collaboration between Kansas edu-
22 cational institutions and Kansas enterprises;

23 (2) awarding applied research matching grants to Kansas educational
24 institutions and Kansas private enterprises in order to move innovation
25 and applied research toward commercial application;

26 (3) engaging in seed-capital financing for the development and im-
27 plementation of innovations or new technologies for existing resource,
28 technology-based and emerging Kansas businesses; and

29 (4) providing technical referral services to such small, new, emerging
30 or mature businesses and encouraging Kansas educational institutions to
31 establish technical information databases and industrial liaison offices
32 which are easily accessible by both private and public sector Kansas
33 organizations.

34 (c) ~~The department of commerce, Kansas, Inc. and all~~ *All* other in-
35 terested state agencies shall cooperate with the ~~Kansas technology enter-~~
36 ~~prise corporation~~ *department of commerce* in providing information and
37 other assistance as may be requested for the performance of its duties
38 with respect to the state's economic development strategy.

39 Sec. 17. K.S.A. 74-8103 is hereby amended to read as follows: 74-
40 8103. As used in ~~this act~~ *K.S.A. 74-8101 through 74-8111, and amend-*
41 *ments thereto*, unless the context clearly requires otherwise:

42 (a) "Applied research" means those research activities occurring at
43 educational institutions and in private enterprises, which have potential

1 commercial application;

2 (b) “basic research” means research that has long range generic value
3 to an industry classification or group of companies. Basic research is dis-
4 tinguished from applied research which has more short range present
5 value to a single company or project;

6 (c) ~~“corporation” means the Kansas technology enterprise corpora-~~
7 ~~tion~~ *“department” means the department of commerce;*

8 (d) “educational institutions” means public and private community
9 colleges, colleges and universities in the state;

10 (e) “enterprise” means a firm with its principal place of business in
11 Kansas which is engaged or proposes to be engaged in this state in agri-
12 cultural, natural resource-based or other manufacturing, research and de-
13 velopment, or the provision of technology-based services;

14 (f) “new technology” means the development through science or re-
15 search of methods, processes and procedures, including but not limited
16 to those involving the utilization of agricultural products and by-products
17 and oil and gas and other mineral resources for practical application in
18 industrial and service situations;

19 (g) “person” means any individual, partnership, corporation or joint
20 venture carrying on business or proposing to carry on business within the
21 state;

22 (h) “product” means any product, device, technique or process,
23 which is or may be developed or marketed commercially; however, “prod-
24 uct” does not refer to basic research but shall apply to such products,
25 devices, techniques or processes which have advanced beyond the theo-
26 retical stage and are in a prototype or practice stage;

27 (i) “qualified security” means any public or private financial arrange-
28 ment, involving any note, security, debenture, evidence of indebtedness,
29 certificate of interest or participation in any profit-sharing agreement,
30 preorganization certificate or subscription, transferable security, invest-
31 ment contract, certificate of deposit for a security, certificate of interest
32 or participation in a patent or application therefor, or in royalty or other
33 payments under such a patent or application, or, in general, any interest
34 or instrument commonly known as a “security” or any certificate for,
35 receipt for, guarantee of, or option, warrant or right to subscribe to or
36 purchase any of the foregoing to the extent allowed by law;

37 (j) *“secretary” means the secretary of commerce; and*

38 ~~(j)~~ (k) “seed capital” means financing that is provided for the devel-
39 opment, refinement and commercialization of a product, process or in-
40 novation, whether for the startup of a new firm, the expansion or the
41 restructuring of a small firm.

42 Sec. 18. K.S.A. 2008 Supp. 74-8104 is hereby amended to read as
43 follows: 74-8104. (a) The ~~corporation~~ *secretary* shall have all the powers

1 necessary to achieve the purposes, specified in K.S.A. 74-8102, and
 2 amendments thereto, including the power to:

3 (1) ~~Make, amend and repeal bylaws;~~ *Adopt* rules and regulations ~~for~~
 4 ~~the management of its affairs as necessary for the implementation of the~~
 5 *provisions of K.S.A. 74-8101 through 74-8104 and 74-8107 through 74-*
 6 *8111, and amendments thereto;*

7 (2) ~~sue and be sued;~~

8 ~~—(3)~~ make contracts and execute all instruments necessary or conven-
 9 ~~ient for carrying out its business powers and duties under K.S.A. 74-8101~~
 10 ~~through 74-8104 and 74-8107 through 74-8111, and amendments thereto;~~

11 ~~(4)~~ (3) acquire, own, hold, dispose of and encumber real or personal
 12 property of any nature, both tangible and intangible, or any interest
 13 therein;

14 ~~(5)~~ (4) enter into agreements or other transactions with any federal,
 15 state, county or municipal agency and with any individual, corporation,
 16 enterprise, association or any other entity involving applied research and
 17 technology;

18 ~~(6)~~ (5) acquire real property or an interest therein, by purchase or
 19 foreclosure, where such acquisition is necessary or appropriate to protect
 20 or secure any investment or loan in which the ~~corporation~~ *department*
 21 has an interest;

22 ~~(7)~~ (6) sell, transfer and convey any such property to a buyer, and in
 23 the event such sale, transfer or conveyance cannot be effected with rea-
 24 sonable promptness or at a reasonable price, to lease such property to a
 25 tenant;

26 ~~(8)~~ (7) invest any funds appropriated by the state and held in reserve
 27 in funds not required for immediate disbursement, in such investments
 28 that may be awful for fiduciaries in this state, and invest funds received
 29 from gifts, grants, donations and other operations of the ~~corporation~~ *de-*
 30 *partment* in such investments as would be lawful for a private corporation
 31 having purposes similar to the ~~corporation~~ *department*;

32 ~~(9)~~ (8) borrow money and give ~~guaranties~~ *guarantees*, provided that
 33 the indebtedness and other obligations of the ~~corporation~~ *department*
 34 shall be payable solely out of its own ~~resources~~ *funds*, and shall not con-
 35 stitute a pledge of the full faith and credit of the state or any of its
 36 revenues;

37 ~~(10)~~ (9) appoint officers, consultants, agents and advisors, and pre-
 38 scribe their duties and compensation;

39 ~~(11)~~ (10) appear in its own behalf before boards, commissions, de-
 40 partments or other agencies of municipal, county or state government or
 41 federal government;

42 ~~(12)~~ (11) procure insurance against any losses in connection with its
 43 properties in such amounts from such insurers as may be necessary or

1 desirable;

2 ~~(13)~~ (12) consent, subject to the provisions of any contract with note-

3 holders, whenever it considers it necessary or desirable in the fulfillment

4 of the purposes of ~~this act~~ K.S.A. 74-8101 through 74-8104 and 74-8107

5 through 74-8111, and amendments thereto, to the modifications, with

6 respect to the rate of interest, time payment or of any installment, of

7 principal and interest or any terms of any contract or agreement of any

8 kind to which the ~~corporation~~ secretary is a party;

9 ~~(14)~~ (13) accept any and all donations, grants, bequests and devises,

10 conditional and otherwise, of money, property, services or other things

11 of value which may be received from the United States or any agency

12 thereof, any governmental agency, or any institution, person, firm or cor-

13 poration, public or private, to be held, used or applied for any or all of

14 the purposes specified in ~~this act~~ K.S.A. 74-8101 through 74-8104 and

15 74-8107 through 74-8111, and amendments thereto, in accordance with

16 the terms and conditions of any such grant;

17 ~~(15)~~ (14) trade, buy or sell qualified securities, including without lim-

18 itation, the powers to guarantee, purchase, take, receive, subscribe for or

19 otherwise acquire, to own, hold, use or otherwise employ; to sell, lease,

20 exchange, transfer or otherwise dispose of; to mortgage, lend, pledge or

21 otherwise deal in and with, qualified securities issued by any other do-

22 mestic or foreign corporation, partnership, association, limited liability

23 company, or business trust, whether or not such issuer was organized or

24 caused to be organized by the ~~corporation~~ secretary. The ~~corporation~~

25 secretary, while owner of any such qualified securities, may exercise all

26 of the rights, powers and privileges of ownership, including without lim-

27 itation the right to vote;

28 ~~(16)~~ (15) finance, conduct or cooperate in the financing or conducting

29 of scientific, technological, business, financial or other investigations

30 which are related to or likely to lead to business and economic develop-

31 ment, involving natural resources, innovation, applied research and new

32 technology, by making and entering into contracts or other appropriate

33 arrangements, including the provisions of grants, loans and other forms

34 of assistance;

35 ~~(17)~~ (16) solicit, study and assist in the preparation of business plans

36 and proposals of new or established resource and technologically oriented

37 enterprises of special importance to the Kansas economy;

38 ~~(18)~~ (17) prepare, publish and distribute such technological studies,

39 reports, bulletins and other materials as it considers appropriate, subject

40 only to the maintenance and responsibility for confidentiality of the client

41 proprietary information, and encourage educational institutions to de-

42 velop and disseminate similar materials;

43 ~~(19)~~ (18) organize, conduct, sponsor or cooperate with, and assist

1 both the private sector and educational institutions in the conduct of,
 2 special institutes, conferences, demonstrations and studies relating to the
 3 stimulation and formulation of innovation, applied science and techno-
 4 logically oriented enterprises and studies relating to the formulation of
 5 resource and technologically oriented enterprises and industry endeavors;
 6 ~~(20)~~ (19) provide and pay for such advisory services and technical
 7 assistance that may be necessary or desirable to carry out the purposes
 8 of ~~this act~~ K.S.A. 74-8101 through 74-8104 and 74-8107 through 74-8111,
 9 and amendments thereto;

10 ~~(21)~~ (20) own, possess and take license in, patents, copyrights and
 11 proprietary processes and negotiate and enter into contracts and establish
 12 charges for the use of such patents, copyrights and proprietary processes
 13 when such patents and licenses for innovation or inventions result from
 14 research sponsored by the ~~corporation~~ department in a private enterprise
 15 or when the ~~corporation~~ department finances a product developed by a
 16 private enterprise;

17 ~~(22)~~ (21) negotiate royalty payments to the ~~corporation~~ department
 18 on patents and licenses for innovations or inventions arising in the course
 19 of research sponsored by the ~~corporation~~ department at educational in-
 20 stitutions under the jurisdiction of the Kansas board of regents; such
 21 negotiated royalty arrangements should reflect an appropriate sharing of
 22 legal risk as well as financial return between the ~~corporation~~ department
 23 and educational institution; such patents and licenses shall be in keeping
 24 with the patent policies of the Kansas board of regents;

25 ~~(23)~~ (22) exercise any other powers necessary for the operation and
 26 functioning of the ~~corporation~~ department within the purposes authorized
 27 in ~~this act~~ K.S.A. 74-8101 through 74-8104 and 74-8107 through 74-8111,
 28 and amendments thereto;

29 ~~(24)~~ (23) participate with any state agency or educational institution
 30 in developing specific programs and goals to assist in the development of
 31 industrial innovation, applied research and new technology of special im-
 32 portance to the Kansas economy, and monitor performance;

33 ~~(25)~~ ~~cooperate with the department of commerce regarding financial~~
 34 ~~assistance programs targeted to small enterprises of special importance~~
 35 ~~to the Kansas economy;~~

36 ~~(26)~~ (24) provide resource-based, scientific and technological data
 37 and information required by the governor, the legislature, or its commit-
 38 tees, and to state agencies, educational institutions and cities, counties
 39 and school districts and to private citizens and groups, within the limita-
 40 tions of the resources available to the ~~corporation~~ department. This serv-
 41 ice shall be in addition to any services currently provided by any educa-
 42 tional institution, committee or other organization in the state.

43 (b) ~~The corporation shall be exempt from all franchise, corporate~~

1 ~~business and income taxes levied by the state. However, this act is not~~
 2 ~~intended to exempt from any such taxes, or from any taxes levied in con-~~
 3 ~~nection with the manufacture or sale of any products or processes which~~
 4 ~~are the subject of any agreement made by the corporation, or any person~~
 5 ~~entering into any agreement with the corporation.~~

6 ~~—(e) Documents and other materials submitted to the corporation de-~~
 7 ~~partment by Kansas businesses shall not be public records if such records~~
 8 ~~are trade secrets under the uniform trade secrets act (K.S.A. 60-3320 et~~
 9 ~~seq., and amendments thereto) or are determined by the corporation~~
 10 ~~secretary to be business secrets, and shall be maintained in a secured~~
 11 ~~environment by the president secretary.~~

12 ~~(d) The corporation shall not be subject to state purchasing laws.~~

13 Sec. 19. K.S.A. 74-8106 is hereby amended to read as follows: 74-
 14 8106. (a) The purpose of this section is to authorize the establishment of
 15 three types of centers of excellence at educational institutions: Centers
 16 of excellence for basic research, centers of excellence for applied research
 17 and development, and centers of excellence for technology transfer.

18 (b) Centers of excellence for basic research will primarily undertake
 19 ongoing basic research with a particular focus that will have long-run
 20 potential for commercial development. The centers should build on in-
 21 stitutional strengths and be in areas of research where the educational
 22 institution has achieved or has true promise of attaining a standard of
 23 excellence as recognized by national and international peers.

24 (1) The Kansas technology enterprise basic research fund is hereby
 25 created to which shall be credited any state funds specifically so desig-
 26 nated. The fund is not to be used for applied research, technology trans-
 27 fer, technical assistance or training except as it is incidental to the basic
 28 research intended to be benefited by this section.

29 (2) The ~~corporation~~ board of regents may use the Kansas technology
 30 enterprise basic research fund to carry out the purposes of ~~this act~~ K.S.A.
 31 74-8102, and amendments thereto, by awarding funds to establish new
 32 centers of excellence for basic research or to increase funding to such
 33 already established centers of excellence so long as those centers are
 34 determined to be primarily carrying out basic research and to meet the
 35 standards of excellence required by ~~this act~~ this section and K.S.A. 74-
 36 8102, and amendments thereto. Awards of funds shall be made on a com-
 37 petitive basis, and all proposals for new centers of excellence shall be
 38 subject to external peer review on the basis of scientific merit which meet
 39 national standards of excellence and subsequent potential for commercial
 40 application.

41 (c) Centers of excellence for applied research and development will
 42 primarily undertake applied research and development with a particular
 43 focus that will have long-run potential for commercial development. The

1 centers should build on institutional strengths and be in areas of research
2 where the educational institution has achieved or has true promise of
3 attaining a standard of excellence in applied research and development.

4 (1) The Kansas technology enterprise applied research and devel-
5 opment fund is hereby created to which shall be credited any state funds
6 specifically so designated. The fund is not to be used for basic research,
7 technology transfer, technical assistance or training except as it is inci-
8 dental to the applied research and development intended to be benefited
9 by this section.

10 (2) The ~~corporation~~ *board of regents* may use the Kansas technology
11 enterprise applied research and development fund to carry out the pur-
12 poses of ~~this act~~ K.S.A. 74-8102, *and amendments thereto*, by awarding
13 funds to establish new centers of excellence for applied research and
14 development or to increase funding to such already established centers
15 of excellence so long as those centers are determined to be carrying out
16 primarily applied research and development, and to be meeting the stan-
17 dards of excellence required by ~~this act~~ *this section and K.S.A. 74-8102,*
18 *and amendments thereto*. Awards of funds shall be made on a competitive
19 basis, and all proposals for new centers of excellence shall be subject to
20 external peer review on the basis of scientific merit which meets national
21 standards of excellence and subsequent potential for commercial
22 application.

23 (d) Centers of excellence for technology transfer will primarily un-
24 dertake ongoing transfer of technology from educational institutions to
25 Kansas business.

26 (1) The Kansas technology enterprise technology transfer fund is
27 hereby created to which shall be credited any state funds specifically so
28 designated. The fund is not to be used for basic research, applied research
29 and development, technical assistance or training except as it is incidental
30 to the technology transfer intended to be benefited by this section.

31 (2) The ~~corporation~~ *board of regents* may use the Kansas technology
32 enterprise technology transfer fund to carry out the purposes of ~~this act~~
33 K.S.A. 74-8102, *and amendments thereto*, by awarding funds to establish
34 new centers of technology transfer or to increase funding to such already
35 established centers of excellence so long as those centers are determined
36 to be carrying out primarily technology transfer.

37 (3) Awards of funds shall be made on a competitive basis and all
38 proposals for new centers of excellence shall be subject to external peer
39 review on the basis of merit which meets national standards of excellence
40 and potential for increasing the competitiveness of Kansas business.

41 (e) The ~~corporation~~ *board of regents* shall award funding to centers
42 of excellence ~~transfer~~ in accordance with subsections (g) and (h).

43 (f) In carrying out its functions under this section, the ~~corporation~~

1 *board of regents* is directed to create a centers of excellence committee
2 to assist in evaluating the establishment of new centers of excellence and
3 in evaluating increases in funding for already established centers of ex-
4 cellence. The membership of the centers of excellence committee may
5 include ~~both directors and staff members~~ *employees* of the ~~corporation~~
6 *board of regents*, and other persons drawn from sources other than the
7 ~~corporation who meet standards similar to those applying to the board of~~
8 ~~directors and board of regents~~ who are recognized by their peers for
9 outstanding knowledge and leadership in their fields.

10 (g) The ~~corporation~~ *board of regents* shall award funding for new
11 centers and increased funding for established centers only after:

12 (1) Developing, adopting and publishing the criteria it shall use when
13 evaluating centers of excellence;

14 (2) developing a level of core funding for each center of excellence;

15 and

16 (3) receiving the recommendation of the centers of excellence com-
17 mittee which will review proposals for new or established centers of ex-
18 cellence containing:

19 (A) Documentation that not less than 50% of the center's funding
20 above the established level of core funding will be matched by sources
21 other than the ~~corporation~~ *board of regents*; machinery or equipment may
22 be considered as part of the matching funds, but must be accompanied
23 by a statement that the center of excellence has received the machinery
24 or equipment, it is state of the art; and either

25 (i) verifying that the machinery or equipment is donated and has only
26 been used in testing to insure quality control, or used by a wholesaler or
27 retailer for demonstration purposes only; or

28 (ii) detailing the price paid by the center of excellence, with an in-
29 voice showing the amount paid for the equipment;

30 (B) a description of a potential for future benefit to industry;

31 (C) an itemized operations budget; and

32 (D) other information that may be required by the *board of regents*.

33 (h) The *board of regents* shall approve proposals to establish new
34 centers of excellence after the *board of regents* finds, based upon the
35 proposal submitted, external peer reviews, and such additional investi-
36 gation as the staff of the ~~corporation~~ *board of regents* shall make ~~and~~
37 ~~incorporate in its minutes~~ that:

38 (1) The proposed center of excellence has the potential to stimulate
39 economic growth by bringing together educational institutions and busi-
40 nesses in partnerships to focus on basic research, applied research and
41 development, and technology transfer;

42 (2) the center has the long-run potential for benefit to existing and
43 new businesses through innovation and development of new technology;

1 and

2 (3) approval of the proposal will not create or foster unnecessary du-
3 plication of programs, particularly at the graduate level of instruction.

4 (i) Each existing Kansas center of excellence is eligible for annual
5 support from the ~~corporation~~ *board of regents* according to the same
6 terms and conditions as provided in ~~this act~~ *this section* for new centers,
7 except that an external peer review to determine under what provision of
8 ~~this statute~~ *this section* and by what terms continuing funding is appro-
9 priate shall be conducted annually during the first three years after the
10 center of excellence is established and shall be conducted biennially
11 thereafter. In the years between external peer reviews conducted on a
12 biennial basis, the ~~corporation~~ *board of regents* shall conduct internal
13 reviews to determine under what provision of ~~this statute~~ *this section* and
14 under what terms continuing funding is appropriate.

15 (j) ~~Any commercialized research that results from the funding of a~~
16 ~~center of excellence shall be subject to negotiations under provisions of~~
17 ~~(21) and (22) of subsection (a) of K.S.A. 74-8104 and amendments~~
18 ~~thereto. The board of regents may require any educational institution~~
19 ~~where a center of excellence is located to oversee the operation of such~~
20 ~~center of excellence.~~

21 (k) *Kansas, Inc. shall annually transmit to the governor and the leg-*
22 *islature a report, based on information received from the board of regents,*
23 *describing the funding and expenditures of each center of excellence for*
24 *the preceding year, including the purposes for which such expenditures*
25 *were made.*

26 Sec. 20. K.S.A. 74-8107 is hereby amended to read as follows: 74-
27 8107. (a) The Kansas technology enterprise applied research matching
28 grant fund is hereby created, to which shall be credited any state funds
29 specifically so designated.

30 (b) The ~~corporation~~ *secretary* may use the Kansas technology enter-
31 prise applied research fund to carry out the purposes of ~~this act~~ K.S.A.
32 *74-8101 through 74-8104 and 74-8107 through 74-8111, and amend-*
33 *ments thereto*, by awarding competitive applied research grants to edu-
34 cational institutions and private enterprises of special importance to the
35 Kansas economy. The fund is not to be used for pure research technology
36 transfer technical assistance or training but only for actual applied
37 research.

38 (c) The ~~board~~ *secretary* shall award grants only after:

39 (1) Developing, adopting and publishing the criteria it shall use when
40 evaluating research proposals; and

41 (2) reviewing applied research proposals which present:

42 (A) Documentation, if the proposal is from an educational institution,
43 that not less than 60% of the total direct cost of the proposed project will

1 be provided by sources other than the ~~corporation~~ *department*; machinery
2 or equipment may be considered as part of the matching funds for the
3 research, but must be accompanied by a statement:

4 (i) That the educational institution has received the machinery or
5 equipment and it is state of the art; and either
6 (ii) verifying that the equipment or machinery is donated and has only
7 been used in testing to insure quality control, or used by a wholesaler or
8 retailer for demonstration purposes only; or
9 (iii) detailing the price paid by the educational institution, with an
10 invoice showing the amount paid for the machinery or equipment;

11 (B) documentation, if the proposal is from a private enterprise, that
12 not less than 60% of the total direct cost of the proposed project will be
13 provided by sources other than the ~~corporation~~ *department* or through
14 in-kind services provided through the private enterprise as evaluated by
15 the ~~board or review committee~~ *secretary*;

16 (C) a description of the future commercial application and the in-
17 dustrial sectors that will likely benefit by the applied research project and
18 the potential for job creation;

19 (D) an itemized research budget, time line and research
20 methodology;

21 (E) a recommendation from the sponsoring educational institution or
22 business enterprise; and
23 (F) other information that may be required by the ~~board~~ *secretary*.

24 (d) The ~~board~~ *secretary* shall approve such applied research proposals
25 after the ~~board~~ *secretary* finds, based upon the proposal submitted and
26 such additional investigation as the staff of the ~~corporation~~ *department*
27 shall make and incorporate in its minutes; that:

28 (1) The proposed project is research that leads to innovation, new
29 knowledge or technology and is not training or technical assistance for
30 business firms;

31 (2) the proposed applied research project will expand that field's
32 technological base within the state;

33 (3) the project will enhance employment opportunities within Kan-
34 sas; and
35 (4) the project is technically sound and will produce a measurable
36 result.

37 (e) The ~~board of directors~~ *secretary* shall create an applied research
38 committee to assist in evaluating potential applied research projects. The
39 membership of this applied research committee may include ~~both direc-~~
40 ~~tors and staff members~~ *employees* of the ~~corporation~~ *department*, and
41 other persons drawn from sources other than the ~~corporation who meet~~
42 ~~standards similar to those applying to the board of directors and depart-~~
43 ~~ment~~ who are recognized by their peers for outstanding knowledge and

1 leadership in their fields.

2 (f) Any commercialized research that results from ~~a corporation an~~
3 applied research grant shall be subject to provisions of *paragraphs* (21)
4 and (22) of subsection (a) of K.S.A. 74-8104, *and amendments thereto*.

5 Sec. 21. K.S.A. 74-8108 is hereby amended to read as follows: 74-
6 8108. (a) The ~~corporation~~ *secretary* is directed to develop a small business
7 innovation research (SBIR) matching grant program which meets the
8 highest current standards for state matching grants to federal phase I
9 SBIR program. Prior to establishing the SBIR matching grant program,
10 the ~~corporation~~ *secretary* shall conduct a survey and analysis of the most
11 effective SBIR matching grant programs existing in other states.

12 (b) The ~~corporation~~ *secretary* is hereby directed to establish a small
13 business innovation research bridge financing fund. Such fund shall pro-
14 vide grants, loans, royalty or equity investment to firms that have previ-
15 ously received federal phase I SBIR moneys and that have applied for a
16 phase II SBIR grant.

17 Sec. 22. K.S.A. 74-8109 is hereby amended to read as follows: 74-
18 8109. (a) There is hereby created the technology enterprise seed-capital
19 fund to which shall be credited any state funds specifically so designated.
20 The ~~corporation~~ *secretary* may credit the fund with unrestricted approp-
21 riations, gifts, donations or grants received from any source and with
22 payments on loans made from the fund.

23 (b) The ~~corporation~~ *secretary* may use the Kansas technology enter-
24 prise seed-capital fund as follows:

25 (1) To carry out the purposes of ~~this act~~ K.S.A. 74-8101 through 74-
26 8104 and 74-8107 through 74-8111, *and amendments thereto*, through
27 investments in qualified securities and through the forms of financial as-
28 sistance authorized by ~~this act~~ K.S.A. 74-8101 through 74-8104 and 74-
29 8107 through 74-8111, *and amendments thereto*, including:

30 (A) Loans, loans convertible to equity, and equity;

31 (B) leaseholds;

32 (C) management or consultant service agreements;

33 (D) loans with warrants attached that are beneficially owned by the
34 ~~corporation~~ *department*;

35 (E) loans with warrants attached that are beneficially owned by a
36 party other than the ~~corporation~~ *department*; and

37 (F) any other contractual arrangement in which the ~~corporation~~ *de-*
38 *partment* is providing scientific and technological services to any federal,
39 state, county or municipal agency, or to any individual, corporation, enter-
40 prise, association or any other entity involving science and technology.
41 The ~~corporation~~ *secretary*, in connection with the provision of any form
42 of financial assistance, may enter into royalty agreements with an
43 enterprise.

- 1 (2) To pay all or a portion of the ~~corporation's~~ *department's* operating
2 expenses from revenues generated by seed-capital fund investments,
3 which shall be an amount sufficient to allow the ~~corporation~~ *department*
4 to undertake and efficiently manage its responsibilities.
- 5 (3) To invest in such other investments as are lawful for Kansas
6 fiduciaries.
- 7 (c) The ~~corporation~~ *secretary* may use the Kansas technology enter-
8 prise seed-capital fund to purchase qualified securities issued by enter-
9 prises as a part of a resource and technology project for the purpose of
10 raising the initial capital for such projects subject to the conditions set
11 forth in this section.
- 12 (d) The ~~corporation~~ *secretary* may use the fund to make low-interest
13 or zero-interest loans to business incubator facilities in exchange for roy-
14 alties from future gross sales generated by enterprises created in the
15 incubator.
- 16 (e) The ~~corporation~~ *secretary* shall purchase qualified securities is-
17 sued by an enterprise as a part of a resource and technology project only
18 after:
- 19 (1) Receipt of an application from the enterprise which contains:
- 20 (A) A business plan including a description of the enterprise and its
21 management, product and market;
- 22 (B) a statement of the amount, timing and projected use of the capital
23 required;
- 24 (C) a statement of the potential economic impact of the enterprise,
25 including the number, location and types of jobs expected to be created;
26 and
- 27 (D) such other information as the ~~corporation board of directors~~ *sec-*
28 *retary* shall request.
- 29 (2) Approval of the investment by the ~~corporation~~ *department* may
30 be made after the ~~board of directors~~ *secretary* finds, based upon the
31 application submitted by the enterprise and such additional investigation
32 as the staff of the ~~corporation~~ *department* shall make ~~and incorporate in~~
33 ~~its minutes~~; that:
- 34 (A) The proceeds of the investment will be used only to cover the
35 seed-capital needs of the enterprise except as authorized by this section;
- 36 (B) the enterprise has a reasonable chance of success;
- 37 (C) the ~~corporation's~~ *department's* participation is instrumental to the
38 success of the enterprise and its retention within the state because fund-
39 ing otherwise available for the enterprise is not available on commercially
40 reasonable terms;
- 41 (D) the enterprise has the reasonable potential to create a substantial
42 amount of employment within the state;
- 43 (E) the entrepreneur and other founders of the enterprise have al-

- 1 ready made or are contractually committed to make a substantial financial
2 and time commitment to the enterprise;
- 3 (F) the securities to be purchased are qualified securities;
- 4 (G) there is a reasonable possibility that the ~~corporation~~ *department*
5 will recoup at least its initial investment; and
- 6 (H) binding commitments have been made to the ~~corporation de-~~
7 *partment* by the enterprise for adequate reporting of financial data to the
8 ~~corporation~~ *department*, which shall include a requirement for an annual
9 report, or if required by the ~~board~~ *secretary*, an annual audit of the fi-
10 nancial and operational records of the enterprise, and for such control on
11 the part of the ~~corporation~~ *department* as the ~~board of directors~~ *secretary*
12 shall consider prudent over the management of the enterprise, so as to
13 protect the investment of the ~~corporation~~ *department*, including in the
14 discretion of the ~~board~~ *secretary* and without limitation, right of access
15 to financial and other records of the enterprise.
- 16 (f) The ~~board of directors~~ *secretary* shall create an investment com-
17 mittee to assist in evaluating potential investments in qualified securities.
18 The membership of this investment committee may include both direc-
19 tors and staff members of the ~~corporation~~ *department*, and other persons
20 drawn from sources other than the ~~corporation~~ *who meet standards sim-*
21 *ilar to those applying to the board of directors and department* who are
22 recognized by their peers for outstanding knowledge and leadership in
23 their fields, all of whom shall serve at the pleasure of the ~~board~~ *secretary*.
- 24 (g) The ~~corporation~~ *secretary* shall not make investments in qualified
25 securities issued by enterprises in excess of the amount necessary to own
26 more than 49% of qualified securities in any one enterprise at the time
27 of the purchase by the ~~corporation~~ *department*, after giving effect to the
28 conversion of all outstanding convertible qualified securities of the en-
29 terprise except that in the event of severe financial difficulty of the en-
30 terprise, threatening, in the judgment of the ~~board of directors~~ *secretary*,
31 the investment of the ~~corporation~~ *department* therein, a greater percent-
32 age of such securities may be owned by the ~~corporation~~ *department*.
- 33 Sec. 23. K.S.A. 74-8110 is hereby amended to read as follows: 74-
34 8110. (a) The ~~Kansas technology enterprise corporation~~ *secretary* shall
35 establish a clearinghouse to provide technology transfer and technical
36 referral services and shall fund educational institutions to establish tech-
37 nical information data bases and industrial liaison offices which are easily
38 accessible by both private and public sector organizations.
- 39 (b) The ~~corporation~~ *secretary* shall provide to private enterprises and
40 individuals, services which include, but are not limited to:
- 41 (1) Disseminating such research and technical information as is avail-
42 able to the ~~corporation~~ *department*;
- 43 (2) referring clients to researchers or laboratories for the purpose of

1 testing and evaluating new products, processes or innovations;

2 (3) assisting persons developing innovations or new technology in lo-

3 cating enterprises or entrepreneurs that may be interested in applying

4 such innovations or new technologies; and

5 (4) providing managerial assistance to enterprises requesting such as-

6 sistance, but particularly to those small enterprises of special importance

7 to the Kansas economy.

8 (c) The ~~corporation~~ *secretary* shall encourage business enterprises to

9 use such technology transfer and technical support services as provided

10 by educational institutions and especially the state's small business de-

11 velopment centers.

12 Sec. 24. K.S.A. 74-8111 is hereby amended to read as follows: 74-

13 8111. (a) The ~~corporation~~ *secretary* shall publish an annual report which

14 shall include an audit in accordance with generally accepted accounting

15 principles as of June 30 of each year, and present the report to the gov-

16 ernor, *the* legislature and Kansas, Inc., setting forth in detail the opera-

17 tions and transactions conducted by it pursuant to ~~this act~~ *K.S.A. 74-8101*

18 *through 74-8104 and 74-8107 through 74-8111, and amendments thereto,*

19 or to other legislation. The annual report shall specifically account for the

20 ways in which the ~~purpose of the corporation~~ *purposes* and the programs

21 described in ~~this act~~ *K.S.A. 74-8101 through 74-8104 and 74-8107*

22 *through 74-8111, and amendments thereto,* have been carried out, and

23 the recommendations shall specifically note what changes in the activities

24 of the ~~corporation~~ *department* and the programs it administers, and of

25 state government are necessary to better address the purposes described

26 in ~~this act~~ *K.S.A. 74-8101 through 74-8104 and 74-8107 through 74-8111,*

27 *and amendments thereto.* The ~~corporation~~ *secretary* shall distribute its

28 annual report by such means that will make it widely available to those

29 innovative enterprises of special importance to the Kansas economy.

30 (b) The ~~corporation~~ *secretary* shall annually review and prepare a

31 report showing how and and at what level other states fund the programs

32 provided for under ~~this act~~ *K.S.A. 74-8101 through 74-8104 and 74-8107*

33 *through 74-8111, and amendments thereto.* The ~~corporation~~ *secretary*

34 shall recommend an appropriate funding level for Kansas which will make

35 these programs nationally competitive with those of other states. The

36 ~~corporation's~~ *secretary's* findings and recommendations shall be submit-

37 ted to the governor and the legislature.

38 (c) The ~~corporation~~ *secretary* shall adopt a threshold funding level

39 for each of the programs provided for under ~~this act~~ *K.S.A. 74-8101*

40 *through 74-8104 and 74-8107 through 74-8111, and amendments thereto.*

41 The threshold amount shall provide for funding that is great enough to

42 have a significant impact and carry out the intent of ~~this act~~ *K.S.A. 74-*

43 *8101 through 74-8104 and 74-8107 through 74-8111, and amendments*

1 *thereto*. If the appropriation to fund these programs falls below the
2 threshold, then no funding shall be provided by the ~~corporation~~ *depart-*
3 *ment* to the program funded below threshold level.

4 (d) The ~~corporation~~ *department* shall be subject to an audit by the
5 legislative division of post audit.

6 Sec. 25. K.S.A. 2008 Supp. 74-8131 is hereby amended to read as
7 follows: 74-8131. (a) The purpose of the Kansas angel investor tax credit
8 act is to facilitate the availability of equity investment in businesses in the
9 early stages of commercial development and to assist in the creation and
10 expansion of Kansas businesses, which are job and wealth creating enter-
11 prises, by granting tax credits against the Kansas income tax liability of
12 investors investing in these businesses. The Kansas angel investor tax
13 credit act shall be administered by the ~~Kansas technology enterprise cor-~~
14 ~~poration (KTEC)~~ *department of commerce* with the primary goal of en-
15 couraging individuals to provide seed-capital financing for emerging, Kan-
16 sas businesses engaged in the development, implementation and
17 commercialization of innovative technologies, products and services.

18 (b) This act shall be known and may be cited as the Kansas angel
19 investor tax credit act.

20 Sec. 26. K.S.A. 2008 Supp. 74-8132 is hereby amended to read as
21 follows: 74-8132. As used in this act:

22 (a) “Angel investor” and “investor” mean an accredited investor who
23 is a natural person or an owner of a permitted entity investor, who is of
24 high net worth, as defined in 17 C.F.R. 230.501(a) as in effect on the
25 effective date of this act, and who seeks high returns through private
26 investments in start-up companies and may seek active involvement in
27 business, such as consulting and mentoring the entrepreneur. For the
28 purposes of this act, a person who serves as an executive, officer, em-
29 ployee, vendor or independent contractor of the business in which an
30 otherwise qualified cash investment is made is not an angel investor and
31 such person shall not qualify for the issuance of tax credits for such
32 investment;

33 (b) “Bioscience business” means what is reflected in K.S.A. 2008
34 Supp. 74-99b83, and amendments thereto;

35 (c) “cash investment” means money or money equivalent in consid-
36 eration for qualified securities;

37 (d) ~~“KTEC” means the Kansas technology enterprise corporation, a~~
38 ~~public instrumentality created pursuant to K.S.A. 74-8101, and amend-~~
39 ~~ments thereto~~ *“department” means the department of commerce;*

40 (e) “Kansas business” means any business owned by an individual,
41 any partnership, association or corporation domiciled in Kansas, or any
42 corporation, even if a wholly owned subsidiary of a foreign corporation,
43 that does business primarily in Kansas or does substantially all of such

1 businesses' production in Kansas;

2 (f) "owner" means any natural person who is, directly or indirectly, a
3 partner, stockholder or member in a permitted entity investor;

4 (g) "permitted entity investor" means (A) any general partnership,
5 limited partnership, corporation that has in effect a valid election to be
6 taxed as an S corporation under the United States internal revenue code,
7 or a limited liability company that has elected to be taxed as a partnership
8 under the United States internal revenue code and (B) that was estab-
9 lished and is operated for the sole purpose of making investments in other
10 entities;

11 (h) "qualified Kansas business" means the Kansas businesses that are
12 approved and certified as qualified Kansas businesses as provided in
13 K.S.A. 2008 Supp. 74-8134, and amendments thereto; ~~and~~

14 (i) "qualified securities" means a cash investment through any one or
15 more forms of financial assistance as provided in this subsection that have
16 been approved in form and substance by ~~KTEC~~ *the secretary*. Such forms
17 of financial assistance are: (1) Any form of equity, such as: (A) A general
18 or limited, partnership interest; (B) common stock; (C) preferred stock,
19 with or without voting rights, without regard to seniority position, and
20 whether or not convertible into common stock; or (D) any form of sub-
21 ordinate or convertible debt, or both, with warrants or other means of
22 equity conversion attached; or

23 (2) a debt instrument, such as a note or debenture that is secured or
24 unsecured, subordinated to the general creditors of the debtor and re-
25 quires no payments of principal, other than principal payments required
26 to be made out of any future profits of the debtor, for at least a seven-
27 year period after commencement of such debt instrument's term; *and*

28 (j) "*secretary*" means *the secretary of commerce*.

29 Sec. 27. K.S.A. 2008 Supp. 74-8133 is hereby amended to read as
30 follows: 74-8133. (a) A credit against the tax imposed by article 32 of
31 chapter 79 of the Kansas Statutes Annotated on the Kansas taxable in-
32 come of an angel investor and against the tax imposed by K.S.A. 40-252,
33 and amendments thereto, shall be allowed for a cash investment in the
34 qualified securities of a qualified Kansas business. The credit shall be in
35 a total amount equal to 50% of such investors' cash investment in any
36 qualified Kansas business, subject to the limitations set forth in subsection
37 (b). This tax credit may be used in its entirety in the taxable year in which
38 the cash investment is made except that no tax credit shall be allowed in
39 a year prior to January 1, 2005. If the amount by which that portion of
40 the credit allowed by this section exceeds the investors' liability in any
41 one taxable year, beginning in the year 2005, the remaining portion of
42 the credit may be carried forward until the total amount of the credit is
43 used. If the investor is a permitted entity investor, the credit provided by

1 this section shall be claimed by the owners of the permitted entity investor
2 in proportion to their ownership share of the permitted entity investor.

3 (b) The secretary of revenue shall not allow tax credits of more than
4 \$50,000 for a single Kansas business or a total of \$250,000 in tax credits
5 for a single year per investor who is a natural person or owner of a per-
6 mitted entity investor. No tax credits authorized by this act shall be al-
7 lowed for any cash investments in qualified securities for any year after
8 the year 2016. The total amount of tax credits which may be allowed
9 under this section shall not exceed \$4,000,000 during the tax year 2007
10 and \$6,000,000 for tax year 2008 and each tax year thereafter. The balance
11 of unissued tax credits may be carried over for issuance in future years
12 until 2016.

13 (c) A cash investment in a qualified security shall be deemed to have
14 been made on the date of acquisition of the qualified security, as such
15 date is determined in accordance with the provisions of the internal rev-
16 enue code.

17 (d) No investor shall claim a credit under this section for cash in-
18 vestments in Kansas venture capital, inc. No Kansas venture capital com-
19 pany shall qualify for the tax credit for an investment in a fund created
20 by articles 81, 82, 83 or 84 of chapter 74 of the Kansas Statutes Annotated.

21 (e) Any investor who has not owed any Kansas income tax under the
22 provisions of article 32, chapter 79 of the Kansas Statutes Annotated for
23 the immediate past three taxable years, who does not reasonably believe
24 that it will owe any such tax for the current taxable year and who makes
25 a cash investment in a qualified security of a qualified Kansas business
26 shall be deemed to acquire an interest in the nature of a transferable
27 credit limited to an amount equal to 50% of this cash investment. This
28 interest may be transferred to any natural person of net worth, as defined
29 in 17 C.F.R. 230.501(a) as in effect on the effective date of this act
30 whether or not such person is then an investor and be claimed by the
31 transferee as a credit against the transferee's Kansas income tax liability
32 beginning in the year provided in subsection (a). No person shall be en-
33 titled to a refund for the interest created under this section. Only the full
34 credit for any one investment may be transferred and this interest may
35 only be transferred one time. A credit acquired by transfer shall be subject
36 to the limitations prescribed in this section. Documentation of any credit
37 acquired by transfer shall be provided by the investor in the manner
38 required by the director of taxation.

39 (f) The reasonable costs of the administration of this act, the review
40 of applications for certification as qualified Kansas businesses and the
41 issuance of tax credits authorized by this act shall be reimbursed through
42 fees paid by the qualified Kansas businesses and the investors or the
43 transferees of investors, according to a reasonable fee schedule adopted

1 *in rules and regulations* by the ~~corporation~~ *secretary*.

2 Sec. 28. K.S.A. 2008 Supp. 74-8134 is hereby amended to read as
3 follows: 74-8134. (a) Before an angel investor may be entitled to receive
4 tax credits, as authorized by this act, such investor must have made a cash
5 investment in a qualified security of a qualified Kansas business. This
6 business must have been approved by ~~KTEG~~ *the secretary* as a qualified
7 Kansas business prior to the date on which the cash investment was made.
8 To be designated as a qualified Kansas business, a business must make
9 application to ~~KTEG~~ *the secretary* in accordance with the provisions of
10 this section.

11 (b) Such application to ~~KTEG~~ *the secretary* shall be in form and sub-
12 stance as required by ~~KTEG~~ *the secretary*, but shall include at least the
13 following:

14 (1) The name of the business and certified copies of the organiza-
15 tional documents of the business;

16 (2) a business plan, including a description of the business and the
17 management, product, market and financial plan of business;

18 (3) a statement of the business innovative and proprietary technology,
19 product or service;

20 (4) a statement of the potential economic impact of the enterprise,
21 including the number, location and types of jobs expected to be created;

22 (5) a description of the qualified securities to be issued, the consid-
23 eration to be paid for the qualified securities, the amount of any tax credits
24 requested and the earliest year in which the tax credits may be redeemed;

25 (6) a statement of the amount, timing and projected use of the pro-
26 ceeds to be raised from the proposed sale of qualified securities; and

27 (7) such other information as ~~KTEG~~ *the secretary* may request, such
28 as the names, addresses and taxpayer identification numbers of all inves-
29 tors who may qualify for the tax credit. Such list of investors who may
30 qualify for the tax credits shall be amended as new qualified securities
31 are sold or as any information on the list shall change.

32 (c) No business shall be designated as a qualified Kansas business
33 unless such business meets all of the following criteria:

34 (1) The business must not have had annual gross revenues of more
35 than \$5,000,000 in the most recent tax year of the business;

36 (2) businesses that are not bioscience businesses must have been in
37 operation for less than five years; bioscience businesses must have been
38 in operation for less than 10 years;

39 (3) all else equal, first consideration will be given to animal health
40 companies;

41 (4) the business must not have ownership interests including, but not
42 limited to, common or preferred shares of stock that can be traded by
43 the public via a stock exchange, electronic exchange, bulletin board or

1 other public market place on or before the date that a qualifying invest-
2 ment is made;

3 (5) the business must not be engaged primarily in any one or more
4 of the following enterprises: (A) Any service provider set forth in K.S.A.
5 17-2707, and amendments thereto; (B) the business of banking, savings
6 and loan or lending institutions, credit or finance, or financial brokerage
7 or investments; (C) the provision of professional services, such as legal,
8 accounting or engineering services; (D) governmental, charitable, relig-
9 ious or trade organizations; (E) the ownership, development, brokerage,
10 sales or leasing of real estate; (F) insurance; (G) construction or construc-
11 tion management or contracting; (H) business consulting or brokerage;
12 (I) any business engaged primarily as a passive business, having irregular
13 or noncontinuous operations, or deriving substantially all of the income
14 of the business from passive investments that generate interest, dividends,
15 royalties, or capital gains, or any business arrangements the effect of
16 which is to immunize an investor from risk of loss; (J) any Kansas certified
17 capital formation company; (K) any activity that is in violation of the law;
18 and (L) any business raising money primarily to purchase real estate, land
19 or fixtures; and

20 (6) the business must satisfy all other requirements of this act.

21 (d) Notwithstanding the requirements of subsection (c), a business
22 may be considered as a qualified Kansas business under the provisions of
23 this act if such business falls within a standard industrial classification
24 code.

25 (e) The portions of documents and other materials submitted to
26 ~~KTEC the department~~ that contain trade secrets shall be kept confidential
27 and shall be maintained in a secured environment by the ~~president of~~
28 ~~KTEC secretary~~. For the purposes of this act, such portions of documents
29 and other materials means any customer lists, any formula, compound,
30 production data or compilation of information certain individuals within
31 a commercial concern using such portions of documents and other ma-
32 terial means to fabricate, produce or compound an article of trade, or,
33 any service having commercial value, which gives the user an opportunity
34 to obtain a business advantage over competitors who do not know or use
35 such service.

36 (f) A qualified Kansas business shall have the burden of proof to dem-
37 onstrate to ~~KTEC the secretary~~ the qualifications of the business under
38 this section and shall have the obligation to notify ~~KTEC the department~~
39 in a timely manner of any changes in the qualifications of the business or
40 in the eligibility of investors to claim a tax credit for cash investment in a
41 qualified security.

42 Sec. 29. K.S.A. 2008 Supp. 74-8135 is hereby amended to read as
43 follows: 74-8135. (a) The designation of a business as a qualified Kansas

1 business shall be made by ~~KTEC~~ *the secretary*, and such designation must
2 be renewed annually. A business shall be so designated if ~~KTEC~~ *the*
3 *secretary* determines, based upon the application submitted by the busi-
4 ness and any additional investigation the staff of ~~KTEC~~ *the department*
5 shall make, that the following criteria have been or shall be satisfied:

- 6 (1) The business has a reasonable chance of success;
 - 7 (2) the business has the reasonable potential to create measurable
8 employment within the state;
 - 9 (3) the business has an innovative and proprietary technology, prod-
10 uct and service;
 - 11 (4) the existing owners of the business and other founders have made
12 or are committed to make a substantial financial and time commitment
13 to the business;
 - 14 (5) the securities to be issued and purchased are qualified securities;
15 and
 - 16 (6) binding commitments have been made by the business to ~~KTEC~~
17 *the department* for adequate reporting of financial data, including a re-
18 quirement for an annual report, or, if required by the ~~board of directors~~
19 ~~of KTEC~~ *secretary*, an annual audit of the financial and operational re-
20 cords of the business, the right of access to the financial records of the
21 business and the right of ~~KTEC~~ *the department* to record and publish
22 normal and customary data and information related to the issuance of tax
23 credits that are not otherwise determined to be trade or business secrets.
- 24 (b) In addition to reports by the businesses to ~~KTEC and its board~~
25 ~~of directors~~, ~~KTEC~~ *the department, the secretary* will also provide an
26 annual report, on or before February 1, to the governor, to the senate
27 committee on commerce, the house committee on economic develop-
28 ment and tourism and the joint committee on economic development
29 and any successor committees thereto, on the marketing and use of the
30 angel investor tax credits. This report will include the following: The
31 amount of tax credits used in the previous fiscal year including what per-
32 centage was claimed by individuals and what percentage was claimed by
33 investment firms; the types of businesses that benefited from the tax
34 credits; and any aggregate job creation or capital investment in Kansas
35 that resulted from the use of the tax credits for a period of five years
36 beginning from the date on which the tax credits were awarded. In ad-
37 dition, the annual report will provide information regarding what busi-
38 nesses which derived benefit from the tax credits remained in Kansas and
39 what businesses ceased business, what businesses were purchased and
40 what businesses may have moved out-of-state and why.

41 Sec. 30. K.S.A. 2008 Supp. 74-8136 is hereby amended to read as
42 follows: 74-8136. (a) Tax credits for qualified Kansas businesses are a
43 limited resource of the state for which ~~KTEC~~ *the secretary* is designated

1 as the administrator. The purpose of such tax credits is to facilitate the
2 availability of equity investment in businesses in the early stages of com-
3 mercial development and to assist in the creation and expansion of Kansas
4 businesses which are job and wealth creating enterprises. To achieve this
5 purpose and to optimize the use of the limited resources of the state,
6 ~~KTEC~~ *the secretary* is authorized to issue tax credits to qualified investors
7 in qualified Kansas businesses. Such tax credits shall be awarded to those
8 qualified Kansas businesses which, as determined by ~~KTEC~~ *the secretary*,
9 are most likely to provide the greatest economic benefit to the state.
10 ~~KTEC~~ *The secretary* may issue whole or partial tax credits based on an
11 assessment of the qualified businesses. ~~KTEC~~ *The secretary* may consider
12 numerous factors in such assessment, including, but not limited to, the
13 quality and experience of the management team, the size of the estimated
14 market opportunity, the risk from current or future competition, the abil-
15 ity to defend intellectual property, the quality and utility of the business
16 model and the quality and reasonableness of financial projections for the
17 business.

18 (b) Each qualified Kansas business for which tax credits have been
19 issued pursuant to this act shall report to ~~KTEC~~ *the department* on an
20 annual basis, the following: (1) The name, address and taxpayer identifi-
21 cation number of each angel investor who has made cash investment in
22 the qualified securities of a qualified Kansas business and has received
23 tax credits for this investment during the preceding year and all other
24 preceding years; (2) the amounts of these cash investments by each angel
25 investor and a description of the qualified securities issued in consider-
26 ation of such cash investments; (3) the name, address and taxpayer iden-
27 tification number of each investor to which tax credits issued pursuant to
28 this act have been transferred by the original angel investor; and (4) any
29 additional information ~~as~~ ~~KTEC~~ *the secretary* may require pursuant to
30 this act.

31 (c) ~~KTEC~~ *The secretary* shall transmit annually to the governor, ~~the~~
32 ~~secretary of commerce~~, the standing committee on commerce of the sen-
33 ate, the standing committee on economic development *and tourism* of
34 the house of representatives, *and* the joint committee on economic de-
35 velopment, and Kansas, Inc. a report, based upon information received
36 from each qualified Kansas business for which tax credits have been is-
37 sued during the preceding year, describing the following: (1) The manner
38 in which the purpose, as described in this act, has been carried out; (2)
39 the total cash investments made for the purchase of qualified securities
40 of qualified Kansas businesses during the preceding year and cumulatively
41 since the inception of this act; (3) an estimate of jobs created and jobs
42 preserved by cash investments made in qualified securities of qualified
43 Kansas businesses; and (4) an estimate of the multiplier effect on the

1 Kansas economy of the cash investments made pursuant to this act.

2 (d) The secretary ~~of commerce~~ shall provide the information speci-
3 fied in subsection (c) to the department of revenue on an annual basis.
4 The secretary ~~of commerce~~ shall conduct an annual review of the activities
5 undertaken pursuant to this act to ensure that tax credits issued pursuant
6 to this act are issued in compliance with the provisions of this act or rules
7 and regulations promulgated by the department ~~of commerce or KTEC~~
8 with respect to this act. ~~The reasonable costs of the annual review shall~~
9 ~~be paid by KTEC according to a reasonable fee schedule adopted by the~~
10 ~~secretary of commerce.~~

11 (e) Any violation of the reporting requirements set forth in this sec-
12 tion shall be grounds for undesignation of a qualified Kansas business
13 under this section.

14 (f) If the secretary ~~of commerce~~ determines that a business is not in
15 substantial compliance with the requirements of this act to maintain its
16 designation, the secretary, by written notice, shall inform the officers of
17 the qualified Kansas business and the business that such business will lose
18 designation as a qualified Kansas business in 120 days from the date of
19 mailing of the notice unless such business corrects the deficiencies and
20 is once again in compliance with the requirements for designation.

21 (g) At the end of the 120-day period, if the qualified Kansas business
22 is still not in substantial compliance, the secretary ~~of commerce~~ shall send
23 a notice of loss of designation to the business, ~~KTEC~~, the secretary of the
24 department of revenue and to all known investors in the business. Loss
25 of designation of a qualified Kansas business shall preclude the issuance
26 of any additional tax credits with respect to this business and ~~KTEC the~~
27 *secretary* shall not approve the application of such business as a qualified
28 Kansas business. Upon loss of the designation as a qualified Kansas busi-
29 ness or if a business loses its designation as a qualified Kansas business
30 under this act by moving its operations outside Kansas within 10 years
31 after receiving financial assistance under this act, such business shall repay
32 such financial assistance to ~~KTEC the department~~, in an amount deter-
33 mined by ~~KTEC the secretary~~. Each qualified Kansas business that loses
34 such designation shall enter into a repayment agreement with ~~KTEC the~~
35 *secretary* specifying the terms of such repayment obligation.

36 (h) Angel investors in a qualified Kansas business shall be entitled to
37 keep all of the tax credits claimed under this act.

38 (i) ~~The department of commerce and KTEC may prepare and adopt~~
39 ~~procedures concerning the performance of the duties placed upon each~~
40 ~~respective entity by this act. The secretary shall adopt rules and regula-~~
41 ~~tions necessary to implement and administer the provisions of K.S.A. 74-~~
42 ~~8131 through 74-8136, and amendments thereto.~~

43 Sec. 31. K.S.A. 74-8316 is hereby amended to read as follows: 74-

- 1 8316. (a) The ~~Kansas technology enterprise corporation~~ *secretary* is
2 hereby authorized to facilitate the establishment of a technology-based
3 venture-capital fund in which the ~~corporation~~ *department* may invest only
4 moneys from the economic development initiatives fund specifically so
5 allocated. The ~~corporation may credit also~~ *department may also credit*
6 the fund with gifts, donations or grants received from any source other
7 than state government and with proceeds from the fund. Investments in
8 the fund shall qualify for the income tax credit allowed pursuant to K.S.A.
9 74-8304, and amendments thereto.
- 10 (b) The technology-based venture-capital fund may invest the assets
11 as follows:
- 12 (1) To carry out the purposes of this act through investments in qual-
13 ified securities and through the forms of financial assistance authorized
14 by this act, including:
- 15 (A) Loans, loans convertible to equity, and equity;
16 (B) leaseholds;
17 (C) management or consultant service agreements;
18 (D) loans with warrants attached that are beneficially owned by the
19 fund;
20 (E) loans with warrants attached that are beneficially owned by a
21 party other than the fund; and
22 (F) the fund, in connection with the provision of any form of financial
23 assistance, may enter into royalty agreements with an enterprise.
- 24 (2) To invest in such other investments as are lawful for Kansas fi-
25 duciaries pursuant to K.S.A. ~~2002 Supp.~~ 58-24a02, and amendments
26 thereto.
- 27 (c) Distributions received by the ~~corporation~~ *department* may be re-
28 invested in any fund consistent with the purposes of this act.
- 29 (d) The ~~corporation~~ *secretary* may invest only in a fund whose in-
30 vestment guidelines permit the fund's purchase of qualified securities
31 issued by an enterprise as a part of a resource and technology project
32 subject to the following:
- 33 (1) Receipt of an application from the enterprise which contains:
- 34 (A) A business plan including a description of the enterprise and its
35 management, product and market;
36 (B) a statement of the amount, timing and projected use of the capital
37 required;
38 (C) a statement of the potential economic impact of the enterprise,
39 including the number, location and types of jobs expected to be created;
40 and
41 (D) such other information as the fund manager or the fund's board
42 of directors shall request.
- 43 (2) Approval of the investment by the fund may be made after the

1 fund manager or the fund's board of directors finds, based upon the
2 application submitted by the enterprise and such additional investigation
3 as the fund manager or the fund's board of directors shall make and
4 incorporate in its minutes, that:

5 (A) The proceeds of the investment will be used only to cover the
6 venture-capital needs of the enterprise except as authorized by this
7 section;

8 (B) the enterprise has a reasonable possibility of success;

9 (C) the fund's participation is instrumental to the success of the en-
10 terprise because funding otherwise available for the enterprise is not
11 available on commercially feasible terms;

12 (D) the enterprise has the reasonable potential to create a substantial
13 amount of employment within the state;

14 (E) the entrepreneur and other founders of the enterprise have al-
15 ready made or are contractually committed to make a substantial financial
16 and time commitment to the enterprise;

17 (F) the securities to be purchased are qualified securities;

18 (G) there is a reasonable possibility that the fund will recoup at least
19 its initial investment; and

20 (H) binding commitments have been made to the fund by the enter-
21 prise for adequate reporting of financial data to the fund, which shall
22 include a requirement for an annual report, or if required by the fund
23 manager, an annual audit of the financial and operational records of the
24 enterprise, and for such control on the part of the fund as the fund man-
25 ager shall consider prudent over the management of the enterprise, so as
26 to protect the investment of the fund, including in the discretion of the
27 fund manager and without limitation, the right of access to financial and
28 other records of the enterprise.

29 (e) All investments made pursuant to this section shall be evaluated
30 by the fund's investment committee and the fund shall be audited an-
31 nually by an independent auditing firm.

32 (f) The fund shall not make investments in qualified securities issued
33 by enterprises in excess of the amount necessary to own more than 49%
34 of the qualified securities in any one enterprise at the time of the purchase
35 by the fund, after giving effect to the conversion of all outstanding con-
36 vertible qualified securities of the enterprise, except that in the event of
37 severe financial difficulty of the enterprise, threatening, in the judgment
38 of the fund manager, the investment of the fund therein, a greater per-
39 centage of such securities may be owned by the fund.

40 (g) At least 75% of the total investment of the fund must be in Kansas
41 businesses.

42 Sec. 32. K.S.A. 74-8317 is hereby amended to read as follows: 74-
43 8317. The ~~corporation~~ *secretary* shall transmit annually to the governor,

1 the standing committee on commerce of the senate, the standing com-
 2 mittee on economic development *and tourism* of the house of represen-
 3 tatives; *and* the joint committee on economic development and Kansas,
 4 Inc.:

5 (a) The annual statement of the fund; and
 6 (b) a report, based upon information received by the fund manager,
 7 which specifies the following:

8 (1) The manner in which the purpose as described in this act has
 9 been carried out by the fund.

10 (2) The total investments made annually by the fund in Kansas
 11 businesses.

12 (3) An estimate of jobs created and jobs preserved by investments by
 13 the fund in Kansas businesses.

14 (4) An estimate of the multiplier effect on the Kansas economy of
 15 investments by the fund in Kansas businesses.

16 (5) An analysis of the targeting of scarce resources by the fund by
 17 size, sector and location to enterprises of particular need and opportunity.

18 Sec. 33. K.S.A. 74-8318 is hereby amended to read as follows: 74-
 19 8318. No enterprise shall be eligible to receive investment pursuant to
 20 this act if ~~an officer, a director or~~ employee ~~or member of the board of~~
 21 ~~directors~~ of the ~~corporation, department, or an officer, employee or mem-~~
 22 ~~ber of the board of directors~~ of the fund or any other entity in which the
 23 ~~corporation~~ department has a majority interest has a substantial interest
 24 in the ~~corporation~~ enterprise.

25 Sec. 34. K.S.A. 74-8319 is hereby amended to read as follows: 74-
 26 8319. For purposes of this act:

27 (a) ~~“Corporation” means the Kansas technology enterprise corpora-~~
 28 ~~tion~~ “Department” means the department of commerce;

29 (b) “fund” means any venture-capital fund whether organized as a
 30 corporation, partnership, limited partnership, limited liability company or
 31 other business entity, as well as any separately organized entity, which
 32 manages any such fund;

33 (c) “fund manager” means any person or persons, approved by the
 34 ~~corporation~~ secretary, legally responsible for the investment and man-
 35 agement of a fund’s assets pursuant to statute or contract; *and*

36 (d) “secretary” means the secretary of commerce.

37 Sec. 35. K.S.A. 74-8401 is hereby amended to read as follows: 74-
 38 8401. (a) There shall be allowed as a credit against the tax imposed by
 39 the Kansas income tax act on the Kansas taxable income of a taxpayer and
 40 against the tax imposed by K.S.A. 40-252, and amendments thereto, on
 41 insurance companies for cash investment in a certified local seed capital
 42 pool an amount equal to 25% of such taxpayer’s cash investment in any
 43 such pool in the taxable year in which such investment is made and the

1 taxable years following such taxable year until the total amount of the
2 credit is used. The amount by which that portion of the credit allowed
3 by this section exceeds the taxpayer's liability in any one taxable year may
4 be carried forward until the total amount of the credit is used. If the
5 taxpayer is a corporation having an election in effect under subchapter S
6 of the federal internal revenue code or a partnership, the credit provided
7 by this section shall be claimed by the shareholders of such corporation
8 or the partners of such partnership in the same manner as such share-
9 holders or partners account for their proportionate shares of the income
10 or loss of the corporation or partnership.

11 (b) The total amount of credits allowable pursuant to this section and
12 credits allowable pursuant to K.S.A. 74-8205, 74-8206 and 74-8304, and
13 amendments thereto, shall be attributable to not more than \$50,000,000
14 of cash investments in Kansas venture capital companies, Kansas venture
15 capital, inc. and local seed capital pools. With respect to the additional
16 amount of cash investments made eligible for tax credits by this act,
17 \$10,000,000 of such amount shall be dedicated and reserved until De-
18 cember 31, 1990, for cash investments in a seed capital fund or funds in
19 which the ~~Kansas technology enterprise corporation, or its subsidiaries,~~
20 *department of commerce* is an investor. The \$50,000,000 amount of cash
21 investments now eligible for the tax credits allowed pursuant to this sec-
22 tion and K.S.A. 74-8205, 74-8206 and 74-8304, and amendments thereto,
23 shall be reduced to the extent that the total amount of cash investments
24 received by such seed capital fund or funds before January 1, 1991, is
25 less than \$10,000,000. However, any such credits which were not claimed
26 for investments made prior to January 1, 1991, may be allowed to a tax-
27 payer for cash investment made in Kansas venture capital, inc. pursuant
28 to K.S.A. 74-8205 and 74-8206, and amendments thereto, not to exceed
29 \$2,595,236 of the \$10,000,000 reserved under this subsection for invest-
30 ment in seed capital funds in which the ~~Kansas technology enterprise~~
31 ~~corporation or its subsidiaries~~ *department of commerce* was an investor.
32 A taxpayer may also be allowed a credit for cash investment made pur-
33 suant to K.S.A. 74-8304, and amendments thereto, not to exceed
34 \$6,012,345 of the \$10,000,000 reserved under this subsection if such tax-
35 payer first purchases the entire interest of the ~~Kansas technology enter-~~
36 ~~prise corporation or its subsidiaries~~ *department of commerce* in Kansas
37 venture capital companies established prior to January 1, 1991. However,
38 no credit shall be allowed for cash investment which results in the pur-
39 chase of the interest of the ~~Kansas technology enterprise corporation or~~
40 ~~its subsidiaries~~ *department of commerce* in Kansas venture capital com-
41 panies established prior to January 1, 1991.

42 (c) As used in this section: (1) "Local seed capital pool" means money
43 invested in a fund established to provide funding for use by small busi-

- 1 nesses for any one or more of the following purposes: (A) Development
2 of a prototype product or process; (B) a marketing study to determine
3 the feasibility of a new product or process; or (C) a business plan for the
4 development and production of a new product or process; *and*
- 5 (2) “Kansas business” means any small business owned by an individ-
6 ual, any partnership, association or corporation domiciled in Kansas, or
7 any corporation, even if a wholly owned subsidiary of a foreign corpora-
8 tion, that does business primarily in Kansas or does substantially all of its
9 production in Kansas.
- 10 (d) No credit from income tax liability shall be allowed for cash invest-
11 ment in a local seed capital pool unless: (1) The amount of private
12 cash investment therein is \$200,000 or more; (2) the moneys necessary
13 to administer and operate the pool are funded from sources other than
14 the private and public cash investments; and (3) funds invested by the
15 local seed capital pool shall be invested at 100% in Kansas businesses.
- 16 (e) Public funds may be invested in a local seed capital pool except
17 that each dollar of public funds, other than that which may be used to
18 administer and operate a pool, shall be matched by not less than \$2 of
19 private cash investment. Public funds shall have a senior position to any
20 private cash investment and may receive a lower rate of return than that
21 allowable for a private cash investment.
- 22 (f) The provisions of this section, and amendments thereto, shall be
23 applicable to all taxable years commencing after December 31, 1986.
- 24 Sec. 36. K.S.A. 2008 Supp. 74-99b03 is hereby amended to read as
25 follows: 74-99b03. As used in the bioscience authority act, and amend-
26 ments thereto, the following words and phrases shall have the following
27 meanings unless a different meaning clearly appears from the content:
- 28 (a) “Authority” means the Kansas bioscience authority created by this
29 act.
- 30 (b) “Authority employee” means an employee of the authority who
31 performs services for the authority and whose salary is paid in whole or
32 in part by the authority. An authority employee will not be considered to
33 be a state employee, as such term is defined in this act or in any other
34 statute or regulation.
- 35 (c) “Bioscience” means the use of compositions, methods and organ-
36 isms in cellular and molecular research, development and manufacturing
37 processes for such diverse areas as pharmaceuticals, medical therapeutics,
38 medical diagnostics, medical devices, medical instruments, biochemistry,
39 microbiology, veterinary medicine, plant biology, agriculture and indus-
40 trial, environmental, and homeland security applications of bioscience,
41 and future developments in the biosciences. Bioscience includes biotech-
42 nology and life sciences.
- 43 (d) “Bioscience company” means a corporation, limited liability com-

1 pany, S corporation, partnership, registered limited liability partnership,
2 foundation, association, nonprofit entity, sole proprietorship, business
3 trust, person, group, or other entity that is engaged in the business of
4 bioscience in the state and has business operations in the state, including,
5 without limitation, research, development, or production directed to-
6 wards developing or providing bioscience products or processes for spe-
7 cific commercial or public purposes and are identified by the following
8 NAICS codes: 325411, 325412, 325413, 325414, 325193, 325199, 325311,
9 32532, 334516, 339111, 339112, 339113, 334510, 334517, 339115,
10 621511, 621512, 54171, 54138, 54194.

11 (e) “Bioscience development project” means an approved project to
12 implement a project plan in a bioscience development district.

13 (f) “Bioscience research” means any investigation for the advance-
14 ment of scientific or technological knowledge of bioscience and any ac-
15 tivity that seeks to utilize, synthesize, or apply existing knowledge, infor-
16 mation or resources to the resolution of a specific problem, question or
17 issue of bioscience.

18 (g) “Bioscience research institutions” means all universities and col-
19 leges located in the state of Kansas conducting bioscience research.

20 (h) “Biotechnology” means those fields focusing on technological de-
21 velopments in such areas as molecular biology, genetic engineering, gen-
22 omics, proteomics, physiomics, nanotechnology, biodefense, biocomput-
23 ing and bioinformatics.

24 (i) “Board” means the board of directors of the authority created by
25 this act.

26 (j) “Bonds” has the same meaning as in K.S.A. 74-8902, and amend-
27 ments thereto.

28 (k) “Bioscience development and investment fund” means the fund
29 created by K.S.A. 2008 Supp. 74-99b34, and amendments thereto.

30 (l) “Eminent scholar” means world-class, distinguished and estab-
31 lished investigators recognized nationally for their research, achievements
32 and ability to garner significant federal funding on an annual basis. Em-
33 inent scholars are recognized for their scientific knowledge and entre-
34 preneurial spirit to enhance the innovative research that leads to eco-
35 nomic gains. Eminent scholars are either members of or likely candidates
36 for the national academy of sciences or other prominent national aca-
37 demic science organizations.

38 ~~(m) “Kansas technology enterprise corporation” or “KTEC” means~~
39 ~~the Kansas technology enterprise corporation created under K.S.A. 74-~~
40 ~~8101, and amendments thereto.~~

41 ~~(n)~~ (m) “Life sciences” means the areas of medical sciences, phar-
42 maceutical sciences, biological sciences, zoology, botany, horticulture,
43 ecology, toxicology, organic chemistry, physical chemistry, physiology and

- 1 any future advances associated with life sciences.
- 2 ~~(o)~~ (n) “NAICS” means the north American industry classification
3 system.
- 4 ~~(p)~~ (o) “NISTAC” means the national institute for strategic technol-
5 ogy acquisition and commercialization.
- 6 ~~(q)~~ (p) “President” means the chief executive officer of the authority.
- 7 ~~(r)~~ (q) “Principal operation” means the operation of the authority
8 requiring at least 75% of the total number of employees at all times.
- 9 ~~(s)~~ (r) “Qualified company” means a Kansas company conducting bi-
10 oscience research and development that may be granted a funding
11 voucher.
- 12 ~~(t)~~ (s) “Rising star scholar” means up-and-coming distinguished in-
13 vestigators growing in their national reputations in their fields, who are
14 active and demonstrate leadership in their associated professional socie-
15 ties, and who attract significant federal research grant support. Rising star
16 scholars would be likely candidates for the national academy of sciences
17 or other prominent national academic science organizations in the future.
- 18 ~~(u)~~ (t) “State” means the state of Kansas.
- 19 ~~(v)~~ (u) “State employee” means a person employed by the state of
20 Kansas whether or not a classified or unclassified employee in the state
21 personnel system. Authority employees shall not be considered state em-
22 ployees, as such term is defined in this act or in any other statute or rule
23 and regulation.
- 24 ~~(w)~~ (v) “State universities” includes state educational institutions as
25 defined in K.S.A. 76-711, and amendments thereto, and the municipal
26 university as defined in K.S.A. 74-3201b, and amendments thereto.
- 27 ~~(x)~~ (w) “Taxpayer” means a person, corporation, limited liability com-
28 pany, S corporation, partnership, registered limited liability partnership,
29 foundation, association, nonprofit entity, sole proprietorship, business
30 trust, group or other entity that is subject to the Kansas income tax act
31 K.S.A. 79-3201 et seq., and amendments thereto.
- 32 ~~(y)~~ (x) “Technology transfer” means, without limitation, assisting with
33 filing patent applications, executing licenses, paying maintenance fees and
34 managing the finance, production, sales and marketing of bioscience in-
35 tellectual property.
- 36 ~~(z)~~ (y) “This act” means the bioscience authority act.
- 37 ~~(aa)~~ (z) Notwithstanding any other provision of this act, the terms
38 “bioscience,” “biotechnology” and “life sciences” shall not be construed
39 to include:
- 40 (1) Induced abortion in humans, performed after the date of enact-
41 ment of this act, or the use of cells or tissues derived therefrom; or
- 42 (2) any research the federal funding of which would be contrary to
43 federal laws that are in effect on the date of enactment of this act.

1 Sec. 37. K.S.A. 2008 Supp. 74-99b04 is hereby amended to read as
2 follows: 74-99b04. (a) There is hereby established a body politic and cor-
3 porate, with corporate succession, to be known as the Kansas bioscience
4 authority. The authority shall be an independent instrumentality of the
5 state. Its exercise of the rights, powers and privileges conferred by this
6 act shall be deemed and held to be the performance of an essential gov-
7 ernmental function.

8 (b) In order to accelerate any and all synergy and opportunities for
9 the growth of the authority, the authority shall be headquartered and
10 establish its principal operation in the county in the state with the highest
11 number of bioscience employees associated with bioscience companies
12 as of the effective date of this act. The exact location of the authority's
13 headquarters and principal operations in such county shall be at the dis-
14 cretion of the authority's board.

15 (c) The authority shall be governed by an eleven-member board. One
16 member of the board shall be an agricultural expert who is recognized
17 for outstanding knowledge and leadership in the field of bioscience. Eight
18 of the members of the board shall be representatives of the general public
19 who are recognized for outstanding knowledge and leadership in the
20 fields of finance, business, bioscience research, plant biotechnology, basic
21 research, health care, legal affairs, bioscience manufacturing or product
22 commercialization, education or government. Of the nine voting mem-
23 bers, five must be residents of the state. The other two members of the
24 board shall be nonvoting members with research expertise representing
25 state universities and shall be appointed by the Kansas board of regents.
26 Nonvoting members shall serve at the pleasure of the board of regents.

27 (d) Of the nine voting members who will be appointed to the au-
28 thority's first board, two shall be appointed by the governor for a term of
29 office of four years, two shall be appointed by the speaker of the house
30 of representatives, one of which shall be the agricultural expert as au-
31 thorized in subsection (c), for a term of office of three years, two shall be
32 appointed by the president of the senate for a term of office of three
33 years, one shall be appointed by the minority leader of the house of rep-
34 resentatives for a term of office of two years, one shall be appointed by
35 the minority leader of the senate for a term of office of two years, and
36 one shall be appointed by the ~~Kansas technology enterprise corporation~~
37 *secretary of commerce* for a term of office of one year. Members of the
38 first board shall be appointed by August 1, 2004. No more than three
39 voting members shall be appointed from any one congressional district.
40 All voting members of the board shall be subject to senate confirmation
41 as provided in K.S.A. 75-4315b, and amendments thereto. Any member
42 of the board whose nomination is subject to confirmation during a regular
43 session of the legislature shall be deemed terminated when the senate

1 rejects the nomination. No such termination shall affect the validity of
2 any action taken by such member of the board before such termination.

3 (e) Terms of voting members appointed pursuant to this section shall
4 expire on March 15.

5 (f) After the expiration of the terms of the authority's first board, or
6 whenever a vacancy occurs or is announced regarding a voting member
7 or members of the board, such voting member or members shall be ap-
8 pointed as described in subsections (c) and (d), except that such members
9 shall be appointed for terms of four years each. In the event of a vacancy
10 the appointment shall be for the remainder of the unexpired portion of
11 the term. Each member of the board shall hold office for the term of
12 appointment and until a successor has been confirmed. Any member of
13 the board is eligible for reappointment, but members of the board shall
14 not be eligible to serve more than three consecutive four-year terms.

15 (g) Except for appointments of nonvoting members, each appoint-
16 ment shall be forwarded to the senate for confirmation as provided in
17 K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A.
18 46-2601, and amendments thereto, no person appointed to the board shall
19 exercise any power, duty or function as a member of the board until
20 confirmed by the senate. In case of a vacancy when the senate is not in
21 session, the appointing entity may make a temporary appointment to the
22 board until the next meeting of the senate. Any person who is temporarily
23 appointed by the appointing entity to the board shall have all of the pow-
24 ers, duties and functions as a member of the board during such temporary
25 appointment.

26 (h) The board annually shall elect a voting member as chairperson
27 and at least one other as vice-chairperson. The board also shall elect a
28 secretary and treasurer for terms to be determined by the board. The
29 board may elect the same person to serve as both secretary and treasurer.
30 The board shall establish an executive committee, nominating committee
31 and other standing or special committees, and prescribe their duties and
32 powers. Any executive committee of the board may exercise all such pow-
33 ers and duties of the board as the board may delegate.

34 (i) Members of the board are entitled to compensation and expenses
35 as provided in K.S.A. 75-3223, and amendments thereto. Members of the
36 board attending board meetings or subcommittee meetings authorized
37 by the board, shall be paid mileage and all other applicable expenses,
38 provided such expenses are consistent with policies established from
39 time-to-time by the board and as required by subsection (k).

40 (j) No part of the funds of the authority shall inure to the benefit of,
41 or be distributed to, its employees, officers or members of the board,
42 except that the authority may make reasonable payments for expenses
43 incurred on its behalf relating to any of its lawful purposes and the au-

- 1 thority shall be authorized and empowered to pay reasonable compen-
2 sation for services rendered to or for its benefit relating to any of its lawful
3 purposes, including to pay its employees reasonable compensation.
- 4 (k) Any member of the board other than a nonvoting member may
5 be removed by an affirmative vote by six members of the board for mal-
6 feasance or misfeasance in office, regularly failing to attend meetings, or
7 for any cause which renders the member incapable of or unfit to discharge
8 the duties of director.
- 9 (l) The board shall meet at least four times per year and at such other
10 times as it deems appropriate, or upon call by the president or the chair-
11 person, or upon written request of a majority of the directors of the board.
12 The board may adopt, repeal and amend such rules, procedures and by-
13 laws, not contrary to law or inconsistent with this act, as it deems expe-
14 dient for its own governance and for the governance and management of
15 the authority. A majority of the total voting membership of the board
16 shall constitute a quorum for meetings. The board may act by a majority
17 of those at any meeting where a quorum is present, except upon such
18 issues as the board may determine shall require a vote of six members of
19 the board for approval. The board shall meet for the initial meeting upon
20 call by the member of the board appointed by the ~~Kansas technology~~
21 ~~enterprise corporation~~ *secretary of commerce*, who shall act as temporary
22 chairperson until officers of the board are elected pursuant to subsection
23 (i).
- 24 (m) The board shall appoint a president who shall serve at the plea-
25 sure of the board. The president shall serve as the chief executive officer
26 of the authority. The president's salary shall be set by the board. The
27 board may negotiate and enter into an employment agreement with the
28 individual selected as president of the authority, which may provide for
29 compensation allowances, benefits and expenses as may be included in
30 such agreement. The president shall direct and supervise administrative
31 affairs and the general management of the authority.
- 32 (n) The board may provide supplemental benefits to the president
33 and other authority employees designated by the board in addition to the
34 benefits provided under this act.
- 35 (o) The authority shall continue until terminated by law, except that
36 no such law shall take effect so long as the authority has debts or obli-
37 gations outstanding, unless adequate provision has been made for the
38 payment or retirement of such debts or obligations. Upon any such dis-
39 solution of the authority, all property, funds and assets thereof shall be
40 vested in the state, bioscience research institutions or both as designated
41 by the board, or any other public institute or private enterprise engaged
42 in the business of bioscience, or any combination thereof, as designated
43 by the board and approved by act of the legislature.

1 Sec. 38. K.S.A. 2008 Supp. 74-99b09 is hereby amended to read as
2 follows: 74-99b09. (a) The authority shall have all of the powers necessary
3 to carry out the purposes and provisions of this act, including, without
4 limitation, the following powers to:

- 5 (1) Make, amend and repeal bylaws, rules and regulations for the
6 management of its affairs;
- 7 (2) have the duties, privileges, immunities, rights, liabilities and dis-
8 abilities of a body politic and corporate and independent instrumentality
9 of the state;
- 10 (3) have perpetual existence and succession;
- 11 (4) adopt, have and use a seal and to alter the same at its pleasure;
- 12 (5) sue and be sued in its own name;
- 13 (6) work with bioscience research institutions to identify and recruit
14 eminent scholars and rising star scholars who shall become employed by
15 bioscience research institutions or the authority, or both, to perform bi-
16 oscience research, development and commercialization at bioscience re-
17 search institutions or at authority facilities, or both;
- 18 (7) transfer funds to bioscience research institutions in amounts to
19 be determined by the board for the purpose of attracting and then sup-
20 plementing the compensation of eminent scholars and rising star scholars;
- 21 (8) work with and collaborate with bioscience research institutions to
22 determine the types of bioscience research that will be conducted by
23 eminent scholars and rising star scholars;
- 24 (9) work with bioscience research institutions to determine the types
25 of facilities that may be constructed at bioscience research institutions or
26 at authority premises, or elsewhere, for eminent scholars and rising star
27 scholars to perform bioscience research and development;
- 28 (10) employ personnel to assist or complement the research of emi-
29 nent scholars and rising star scholars;
- 30 (11) establish policies and procedures to facilitate integrated biosci-
31 ence research activities by the authority and bioscience research
32 institutions;
- 33 (12) make and execute contracts, guarantees or any other instruments
34 and agreements necessary or convenient for the exercise of its powers
35 and functions including, without limitation, to make and execute contracts
36 with bioscience enterprises, including start-up companies, other public
37 and private persons and entities, health care businesses, state universities
38 and colleges, and to incur liabilities and secure the obligations of any
39 entity or individual;
- 40 (13) partner with the bioscience research institutions to provide
41 matching funds for federal grants;
- 42 (14) borrow money and to pledge all or any part of the authority's
43 assets therefore;

- 1 (15) purchase, lease, trade, exchange or otherwise acquire, maintain,
2 hold, improve, mortgage, sell and dispose of personal property, whether
3 tangible or intangible, and any interest therein; and to purchase, lease,
4 trade, exchange or otherwise acquire real property or any interest therein,
5 and to maintain, hold, improve, mortgage, sell, lease and otherwise trans-
6 fer such real property to the universities, colleges, public institutions and
7 private enterprises in the state, so long as such transactions do not conflict
8 with the mission of the authority as specified in this act;
- 9 (16) own, acquire, construct, renovate, equip, improve, operate,
10 maintain, sell or lease any land, buildings or facilities in the state that can
11 be used in researching, developing, sponsoring or commercializing bio-
12 science in the state including, without limitation, a state-of-the-art facility,
13 laboratory or commercial wet lab space incubator to be used by the au-
14 thority, and also to be made available for use by bioscience research in-
15 stitutions or Kansas companies conducting bioscience research and de-
16 velopment for bioscience research, commercialization and technology
17 transfer of bioscience products, processes and other intellectual property
18 in accordance with the provisions of this act;
- 19 (17) incur or assume indebtedness to, and enter into contracts with
20 the Kansas development finance authority, which is authorized to borrow
21 money, issue bonds and provide financing for the authority;
- 22 (18) develop policies and procedures generally applicable to the pro-
23 curement of goods, services and construction, based upon sound business
24 practices;
- 25 (19) solicit, study and assist in the preparation of business plans and
26 proposals of new or established businesses to advance the biosciences in
27 the state;
- 28 (20) own and possess patents, copyrights, trademarks and proprietary
29 technology and to enter into contracts for the purposes of commercial-
30 izing and establishing charges for the use of such patents, copyrights,
31 trademarks and proprietary technology involving bioscience;
- 32 (21) contract for and to accept any gifts, grants and loans of funds,
33 property or any other aid in any form from the federal government, the
34 state, any state agency or any other source, or any combination thereof,
35 and to comply with the provisions of the terms and conditions thereof;
- 36 (22) acquire space, equipment, services, supplies and insurance nec-
37 essary to carry out the purposes of this act;
- 38 (23) deposit any moneys of the authority in any banking institution
39 within or without the state or in any depository authorized to receive such
40 deposits, one or more persons to act as custodians of the moneys of the
41 authority;
- 42 (24) procure such insurance, participate in such insurance plans or
43 provide such self-insurance or both as it deems necessary or convenient

- 1 to carry out the purposes and provisions of this act; the purchase of in-
2 surance, participation in an insurance plan or creation of a self-insurance
3 fund by the authority shall not be deemed as a waiver or relinquishment
4 of any sovereign immunity to which the authority or its officers, directors,
5 employees or agents are otherwise entitled;
- 6 (25) appoint, supervise and set the salary and compensation of the
7 president, who shall be appointed by and serve at the pleasure of the
8 board;
- 9 (26) fix, revise, charge and collect rates, rentals, fees and other
10 charges for the services or facilities furnished by or on behalf of the au-
11 thority, and to establish policies and procedures regarding any such serv-
12 ice rendered for the use, occupancy or operation of any such facility; such
13 charges and policies and procedures not to be subject to supervision or
14 regulation by any commission, board, bureau or agency of the state; and
- 15 (27) do any and all things necessary or convenient to carry out the
16 authority's purposes and exercise the powers given in this act.
- 17 (b) The authority may create, own in whole or in part, or otherwise
18 acquire or dispose of any entity organized for a purpose related to or in
19 support of the mission of the authority.
- 20 (c) The authority may participate in joint ventures and collaborate
21 with any taxpayer, governmental body or agency, insurer, university and
22 college of the state, or any other entity to facilitate any activities or pro-
23 grams consistent with the purpose and intent of this act.
- 24 (d) (1) The authority may create a nonprofit entity or entities for the
25 purpose of soliciting, accepting and administering grants, outright gifts
26 and bequests, endowment gifts and bequests, and gifts and bequests in
27 trust, which entity or entities shall not engage in trust business. The non-
28 profit entity created in this subsection may expend such funds through
29 grants or loans to further the purpose of bioscience authority activities
30 including, but not limited to, issuing grants to high schools for the purpose
31 of creating bioscience academies and to Kansas universities and colleges
32 for the purpose of increasing the number of students majoring in biosci-
33 ence, science education and math education. The authority may set
34 requirements for curricula, teaching credentials and any other items and
35 procedures incidental to establishing the grant programs.
- 36 (2) Grants made pursuant to this subsection shall be based on
37 requirements established by the nonprofit entity and may include, but
38 not be limited to, requirements for eligibility, grant applications, organi-
39 zational characteristics and standards for eligibility and accountability as
40 are deemed advisable by the nonprofit entity.
- 41 (3) The authority may not create any political action committee or
42 contribute to any political action committee.
- 43 (e) In carrying out any activities authorized by this act, the authority

1 may provide appropriate assistance, including the making of loans and
2 providing time of employees, to any taxpayer, governmental body or
3 agency, insurer, university and college of the state, or any other entity,
4 whether or not any such taxpayer, governmental body or agency, insurer,
5 university and college of the state, or any other entity is owned or con-
6 trolled in whole or in part, directly or indirectly, by the authority.

7 (f) Notwithstanding any provision of law to the contrary, the authority
8 may, ~~on an independent basis for itself or from time to time through a~~
9 ~~contractual relationship with KTEC,~~ invest the funds received from gifts,
10 grants, donations and other operations of the authority in such invest-
11 ments as would be lawful for a private corporation having purposes similar
12 to the authority including preseed, seed capital and venture capital funds
13 whose purpose is to commercialize bioscience intellectual property, and
14 in any obligations or securities as authorized by the board. Prior to making
15 any investments, the board shall adopt written investment guidelines.

16 (g) Except as provided in this act, all moneys earned or received by
17 the authority, including all funds derived from the commercialization of
18 bioscience products by the authority, or any affiliate or subsidiary thereof,
19 or from the Kansas bioscience development and investment fund, shall
20 belong exclusively to the authority.

21 (h) In accordance with subsection (i) below, the authority shall direct
22 and manage the commercialization of bioscience intellectual property cre-
23 ated by eminent scholars and rising star scholars who are employed by
24 bioscience research institutions or the authority or both. Prior to the au-
25 thority providing any financial support or funding to the bioscience re-
26 search institutions, the authority and the bioscience research institutions
27 must enter into an agreement that will govern each party's respective
28 duties and responsibilities with respect to technology transfer and com-
29 mercialization of any such bioscience intellectual property. Such agree-
30 ments between the authority and the bioscience research institutions shall
31 address the sharing of revenue from any such bioscience intellectual prop-
32 erty, the technology transfer of such bioscience intellectual property, pat-
33 ent application filing and maintenance fees, assumption of risks and the
34 terms of ownership of such bioscience intellectual property. The authority
35 and the bioscience research institutions shall have authority to freely ne-
36 gotiate. If conflicts arise, all terms and provisions of such agreement shall
37 prevail and govern over any policy of a bioscience research institution or
38 the Kansas board of regents.

39 (i) ~~During the first five years after the effective date of this act, the~~
40 ~~authority may contract with KTEC, which will be able to subcontract with~~
41 ~~appropriate third parties as it deems necessary and appropriate, including,~~
42 ~~without limitation, NISTAC, for the initial commercialization efforts for~~
43 ~~bioscience intellectual property, including, without limitation, corporate~~

1 patent donations. The contract between the authority and KTEC must
2 be negotiated between the authority and KTEC and will set forth the
3 rights and responsibilities of each party, including the financial terms,
4 payment of funds for personnel, assumptions of risks, technology transfer
5 and terms of ownership and licensure of such bioscience intellectual prop-
6 erty. The contract between the authority and KTEC must also set forth
7 the authority's right, if any, to sell, license, contribute or provide its con-
8 tractual share of bioscience intellectual property to any third party, or
9 provide services, facilities or assistance to any third party, for a fee, for
10 an ownership interest in the third party, or other consideration, so as to
11 commercialize bioscience technology. After the five-year period from the
12 effective date of this act, The authority may independently commercialize
13 or enter into contracts with third parties for the commercialization of
14 bioscience intellectual property and for technology transfer. The authority
15 will take steps to reasonably ensure that it does not duplicate existing
16 commercialization efforts already located in the state and recognizes the
17 important role KTEC plays in the state. After the five-year period from
18 the effective date of this act, The authority may sell, license, contribute
19 or provide bioscience intellectual property to any third party, or provide
20 services, facilities or assistance to any third party, for a fee, for an own-
21 ership interest in the third party, or other consideration, so as to com-
22 mercialize bioscience technology. The authority may take all such actions
23 necessary to commercialize any technology in which the authority has an
24 interest.

25 (j) ~~For the five-year period following the effective date of this act,~~
26 ~~the authority may transfer funds to KTEC for the operation and man-~~
27 ~~agement of authority-owned facilities, including, without limitation, funds~~
28 ~~for KTEC to employ the personnel necessary to assist the authority, the~~
29 ~~exact amount of such transfer to be negotiated between the authority and~~
30 ~~KTEC. After consulting with and in accordance with recommendations~~
31 ~~by the board, KTEC may use such funds to identify, recruit and employ~~
32 ~~personnel who will perform management and other services at such au-~~
33 ~~thority-owned facilities.~~

34 ~~—(k)—During the five-year period after the effective date of this act, the~~
35 ~~authority shall contract with KTEC at least once a year for KTEC to~~
36 ~~submit a report to the board identifying all patents secured, licenses~~
37 ~~granted, the number of eminent scholars and rising star scholars in the~~
38 ~~state, a complete accounting of interests in technology sold, transferred,~~
39 ~~licensed or otherwise disposed of, including, without limitation, the~~
40 ~~names of buyers, the buyers' location, the date the technology was trans-~~
41 ~~ferred, revenue generated by the transfer of such technology, and any~~
42 ~~other information that the board deems appropriate. After the five-year~~
43 ~~period from the effective date of this act, on at least an annual basis, the~~

1 ~~authority shall conduct, either independently or through a contract with~~
2 ~~a third party, including KTEC if chosen by the authority, a report of the~~
3 ~~foregoing information to be submitted to the board.~~

4 ~~(l)~~ The authority shall prepare an annual report to the legislature and
5 the governor on all distributions from the bioscience development and
6 investment fund, and income, investment and income tax credits and
7 exemptions attributed to bioscience authority activity. The authority with
8 assistance from the department of revenue shall prepare an annual report
9 summarizing the growth of bioscience research and industry in Kansas.

10 ~~(m)~~ (k) The authority shall be subject to review by Kansas, Inc. In
11 the review, Kansas, Inc. shall evaluate and report on the effectiveness of
12 the activities of the bioscience authority in the manner provided in K.S.A.
13 74-8010, and amendments thereto.

14 Sec. 39. K.S.A. 2008 Supp. 74-99b63 is hereby amended to read as
15 follows: 74-99b63. As used in the bioscience research and development
16 voucher program act, and amendments thereto, the following words and
17 phrases have the following meanings unless a different meaning clearly
18 appears from the content:

19 (a) "Authority" means the Kansas bioscience authority as created by
20 K.S.A. 2008 Supp. 74-99b04, and amendments thereto.

21 (b) "Bioscience" means, without limitation, the use of compositions,
22 methods and organisms in cellular and molecular research, development
23 and manufacturing processes for such diverse areas as pharmaceuticals,
24 medical therapeutics, medical diagnostics, medical devices, medical in-
25 struments, biochemistry, microbiology, veterinary medicine, plant biol-
26 ogy, agriculture, industrial, environmental and homeland security appli-
27 cations of bioscience and future developments in the biosciences.
28 Bioscience includes biotechnology and life sciences.

29 (c) "Bioscience research" means any investigation for the advance-
30 ment of scientific or technological knowledge of bioscience and any ac-
31 tivity that seeks to utilize, synthesize, or apply existing knowledge, infor-
32 mation or resources to the resolution of a specific problem, question or
33 issue of bioscience.

34 (d) "Bioscience research institutions" means all universities and col-
35 leges located in the state of Kansas conducting bioscience research.

36 (e) "Biotechnology" means, without limitation, those fields focusing
37 on technological developments in such areas as molecular biology, genetic
38 engineering, genomics, proteomics, physiomics, nanotechnology, biode-
39 fense, biocomputing, bioinformatics and future developments associated
40 with biotechnology.

41 (f) ~~"KTEC" means the Kansas technology enterprise corporation cre-~~
42 ~~ated by K.S.A. 74-8101 et seq., and amendments thereto.~~

43 ~~(g)~~ "Life sciences" means the areas of medical sciences, pharmaceu-

1 tical sciences, biological sciences, zoology, botany, horticulture, ecology,
2 toxicology, organic chemistry, physical chemistry, physiology and any fu-
3 ture advances associated with life sciences.

4 ~~(h)~~ (g) “Qualified company” means a Kansas company conducting
5 bioscience research and development that may be granted a funding
6 voucher.

7 ~~(i)~~ (h) “State” means the state of Kansas.

8 ~~(j)~~ (i) “This act” means the bioscience research and development
9 voucher program act.

10 Sec. 40. K.S.A. 2008 Supp. 74-99b66 is hereby amended to read as
11 follows: 74-99b66. (a) ~~On terms mutually acceptable to the authority and~~
12 ~~KTEC~~ The authority ~~may contract with KTEC, to~~ shall review applica-
13 tions ~~and~~ to certify whether an applicant is a qualified company.

14 (b) ~~On terms mutually acceptable to the authority and KTEC,~~ The
15 authority ~~may contract with KTEC to~~ shall develop application criteria
16 and an application process subject to the following limitations. The pro-
17 posed bioscience research and development project must be likely to:

- 18 (1) Produce a measurable result and be technically sound;
- 19 (2) lead to innovative technology or new knowledge;
- 20 (3) lead to commercially successful products, processes or services;
- 21 (4) stimulate economic growth; or
- 22 (5) enhance employment opportunities within the state.

23 (c) As part of the application process, the applicant shall provide the
24 following information to the authority:

- 25 (1) Verification that the applicant is a Kansas company conducting
26 bioscience research and development;
- 27 (2) a technical research plan that is sufficient for outside expert
28 review;
- 29 (3) a detailed financial analysis that includes the commitment of re-
30 sources by the applicant and others;
- 31 (4) sufficient detail concerning proposed project partners, type and
32 amount of work to be performed by each partner and expected product
33 or service with estimated costs to be reflected in the negotiated contract
34 or agreement; and

35 (5) a statement of the economic development potential of the project.

36 (d) Before providing the qualified company with a certificate author-
37 izing voucher funding from the authority ~~through KTEC,~~ the authority
38 may negotiate with the qualified company the ownership of patents, cop-
39 yrights, trademarks, proprietary technology and any other intellectual
40 property rights, royalties and equity relating to the bioscience research
41 and development project on behalf of the research and development
42 voucher fund for the purpose of reinvesting and sustaining a continuous
43 fund to carry out the provisions of this act.

1 Sec. 41. K.S.A. 2008 Supp. 74-99c03 is hereby amended to read as
2 follows: 74-99c03. (a) There is hereby created a body politic and corporate
3 to be known as the Kansas center for entrepreneurship. The secretary of
4 commerce, after consulting with the board of directors, shall enter into a
5 contractual agreement for the operation of the center. The center's ex-
6 ercise of all the rights, powers and privileges conferred by this act and
7 shall be deemed and held to be the performance of an essential govern-
8 ment function.

9 (b) The center shall be governed by a board of 11 directors. The
10 board of directors shall be appointed by the secretary of commerce and
11 shall be comprised of individuals who have demonstrated entrepreneurial
12 success, including one member from each of the following organizations:
13 (1) ~~Three~~ *Four* at-large entrepreneurs,
14 (2) An agricultural entrepreneur knowledgeable in biosciences,
15 (3) banking industry,
16 (4) travel/tourism industry,
17 (5) enterprise facilitation,
18 (6) Kansas chamber of commerce and industry,
19 (7) Kansas small business development centers, *and*
20 (8) ~~Kansas technology enterprise corporation and~~
21 ~~(9)~~ national federation of independent businesses.

22 (c) (1) Members shall serve for a term of four years and until such
23 members' successors are appointed, except that, of the members first
24 appointed, three shall serve for a term of two years, three shall serve for
25 a term of three years and two shall serve for a term of four years.

26 (2) In case of a vacancy by a member, a successor shall be appointed
27 in like manner and subject to the same qualifications and conditions as
28 the original appointment of the member creating the vacancy and shall
29 serve the remainder of the unexpired portion of the term.

30 (d) The secretary of commerce shall organize and schedule the first
31 meeting of the board, at which time the board shall choose a chairperson
32 and may appoint committees from its members as necessary.

33 (e) The board of directors shall meet at least four times a year and
34 at such other times as it deems appropriate or upon call of the chairperson
35 or upon the written request of a majority of the members of the board.

36 (f) Members of the board of directors attending board meetings or
37 committee meetings thereof authorized by the center, shall be paid
38 amounts provided in subsection (e) of K.S.A. 75-3223, and amendments
39 thereto.

40 (g) Members of the board of directors, in their dealings with enter-
41 prises that may receive financing through the corporation, shall declare
42 any potential conflict of interest and abstain from voting prior to taking
43 any actions relating to that transaction.

1 (h) The board of directors shall hold all board meetings within the
2 state of Kansas.

3 (i) Members of the board of directors may serve multiple terms.

4 (j) A member appointed to the board of directors may be removed
5 by the secretary for cause, stated in writing, after a hearing thereon.

6 (k) A majority of the total voting membership of the board shall con-
7 stitute a quorum for meetings. The board may act by a majority of those
8 at any meeting where a quorum of the board is present.

9 (l) Before assuming office, each person appointed as a member of
10 the board of directors shall complete and file with the office of the sec-
11 retary of state a statement containing the information required in a state-
12 ment of substantial interest pursuant to K.S.A. 46-247, and amendments
13 thereto;

14 (m) The board of directors shall:

15 (1) Consult with and make a recommendation to the secretary con-
16 cerning the awarding of the contract for the Kansas center for
17 entrepreneurship;

18 (2) make recommendations to the Kansas center for entrepreneur-
19 ship regarding its policies and procedures;

20 (3) review and evaluate the Kansas center for entrepreneurs' an-
21 nual report in light of this act's purpose, policy and procedures and cur-
22 rent economic conditions, and, report its conclusions and recommenda-
23 tions to the secretary and the center;

24 (4) advise the secretary regarding any matter of impropriety involving
25 the Kansas center for entrepreneurship of which it becomes aware; and

26 (5) carry out any other advisory or oversight function the secretary
27 deems necessary to fulfill and further the purpose and intent of this act.

28 Sec. 42. K.S.A. 2008 Supp. 75-2935 is hereby amended to read as
29 follows: 75-2935. The civil service of the state of Kansas is hereby divided
30 into the unclassified and the classified services.

31 (1) The unclassified service comprises positions held by state officers
32 or employees who are:

33 (a) Chosen by election or appointment to fill an elective office;

34 (b) members of boards and commissions, heads of departments re-
35 quired by law to be appointed by the governor or by other elective offi-
36 cers, and the executive or administrative heads of offices, departments,
37 divisions and institutions specifically established by law;

38 (c) except as otherwise provided under this section, one personal sec-
39 retary to each elective officer of this state, and in addition thereto, 10
40 deputies, clerks or employees designated by such elective officer;

41 (d) all employees in the office of the governor;

42 (e) officers and employees of the senate and house of representatives
43 of the legislature and of the legislative coordinating council and all officers

1 and employees of the office of revisor of statutes, of the legislative re-
2 search department, of the division of legislative administrative services,
3 of the division of post audit and the legislative counsel;

4 (f) chancellor, president, deans, administrative officers, student
5 health service physicians, pharmacists, teaching and research personnel,
6 health care employees and student employees in the institutions under
7 the state board of regents, the executive officer of the board of regents
8 and the executive officer's employees other than clerical employees, and,
9 at the discretion of the state board of regents, directors or administrative
10 officers of departments and divisions of the institution and county exten-
11 sion agents, except that this subsection (1)(f) shall not be construed to
12 include the custodial, clerical or maintenance employees, or any employ-
13 ees performing duties in connection with the business operations of any
14 such institution, except administrative officers and directors; as used in
15 this subsection (1)(f), "health care employees" means employees of the
16 university of Kansas medical center who provide health care services at
17 the university of Kansas medical center and who are medical technicians
18 or technologists or respiratory therapists, who are licensed professional
19 nurses or licensed practical nurses, or who are in job classes which are
20 designated for this purpose by the chancellor of the university of Kansas
21 upon a finding by the chancellor that such designation is required for the
22 university of Kansas medical center to recruit or retain personnel for
23 positions in the designated job classes; and employees of any institution
24 under the state board of regents who are medical technologists;

25 (g) operations, maintenance and security personnel employed to im-
26 plement agreements entered into by the adjutant general and the federal
27 national guard bureau, and officers and enlisted persons in the national
28 guard and the naval militia;

29 (h) persons engaged in public work for the state but employed by
30 contractors when the performance of such contract is authorized by the
31 legislature or other competent authority;

32 (i) persons temporarily employed or designated by the legislature or
33 by a legislative committee or commission or other competent authority
34 to make or conduct a special inquiry, investigation, examination or
35 installation;

36 (j) officers and employees in the office of the attorney general and
37 special counsel to state departments appointed by the attorney general,
38 except that officers and employees of the division of the Kansas bureau
39 of investigation shall be in the classified or unclassified service as provided
40 in K.S.A. 75-711, and amendments thereto;

41 (k) all employees of courts;

42 (l) client, patient and inmate help in any state facility or institution;

43 (m) all attorneys for boards, commissions and departments;

- 1 (n) the secretary and assistant secretary of the Kansas state historical
2 society;
- 3 (o) physician specialists, dentists, dental hygienists, pharmacists,
4 medical technologists and long term care workers employed by the de-
5 partment of social and rehabilitation services;
- 6 (p) physician specialists, dentists and medical technologists employed
7 by any board, commission or department or by any institution under the
8 jurisdiction thereof;
- 9 (q) student employees enrolled in public institutions of higher
10 learning;
- 11 (r) administrative officers, directors and teaching personnel of the
12 state board of education and the state department of education and of
13 any institution under the supervision and control of the state board of
14 education, except that this subsection (1)(r) shall not be construed to
15 include the custodial, clerical or maintenance employees, or any employ-
16 ees performing duties in connection with the business operations of any
17 such institution, except administrative officers and directors;
- 18 (s) all officers and employees in the office of the secretary of state;
- 19 (t) one personal secretary and one special assistant to the following:
20 The secretary of administration, the secretary of aging, the secretary of
21 agriculture, the secretary of commerce, the secretary of corrections, the
22 secretary of health and environment, the superintendent of the Kansas
23 highway patrol, the secretary of labor, the secretary of revenue, the sec-
24 retary of social and rehabilitation services, the secretary of transportation,
25 the secretary of wildlife and parks and the commissioner of juvenile
26 justice;
- 27 (u) one personal secretary and one special assistant to the chancellor
28 and presidents of institutions under the state board of regents;
- 29 (v) one personal secretary and one special assistant to the executive
30 vice chancellor of the university of Kansas medical center;
- 31 (w) one public information officer and one chief attorney for the fol-
32 lowing: The department of administration, the department on aging, the
33 department of agriculture, the department of commerce, the department
34 of corrections, the department of health and environment, the depart-
35 ment of labor, the department of revenue, the department of social and
36 rehabilitation services, the department of transportation, the Kansas de-
37 partment of wildlife and parks and the commissioner of juvenile justice;
- 38 (x) civil service examination monitors;
- 39 (y) one executive director, one general counsel and one director of
40 public affairs and consumer protection in the office of the state corpo-
41 ration commission;
- 42 (z) specifically designated by law as being in the unclassified service;
- 43 (aa) all officers and employees of Kansas, Inc. ~~and the Kansas tech-~~

1 ~~nology enterprise corporation;~~

2 (bb) any position that is classified as a position in the information
3 resource manager job class series, that is the chief position responsible
4 for all information resources management for a state agency, and that
5 becomes vacant on or after the effective date of this act. Nothing in this
6 section shall affect the classified status of any employee in the classified
7 service who is employed on the date immediately preceding the effective
8 date of this act in any position that is a classified position in the infor-
9 mation resource manager job class series and the unclassified status as
10 prescribed by this subsection shall apply only to a person appointed to
11 any such position on or after the effective date of this act that is the chief
12 position responsible for all information resources management for a state
13 agency; and

14 (cc) positions at state institutions of higher education that have been
15 converted to unclassified positions pursuant to K.S.A. 2008 Supp. 76-
16 715a, and amendments thereto.

17 (2) The classified service comprises all positions now existing or here-
18 after created which are not included in the unclassified service. Appoint-
19 ments in the classified service shall be made according to merit and fitness
20 from eligible pools which so far as practicable shall be competitive. No
21 person shall be appointed, promoted, reduced or discharged as an officer,
22 clerk, employee or laborer in the classified service in any manner or by
23 any means other than those prescribed in the Kansas civil service act and
24 the rules adopted in accordance therewith.

25 (3) For positions involving unskilled, or semiskilled duties, the sec-
26 retary of administration, as provided by law, shall establish rules and reg-
27 ulations concerning certifications, appointments, layoffs and reemploy-
28 ment which may be different from the rules and regulations established
29 concerning these processes for other positions in the classified service.

30 (4) Officers authorized by law to make appointments to positions in
31 the unclassified service, and appointing officers of departments or insti-
32 tutions whose employees are exempt from the provisions of the Kansas
33 civil service act because of the constitutional status of such departments
34 or institutions shall be permitted to make appointments from appropriate
35 pools of eligibles maintained by the division of personnel services.

36 Sec. 43. K.S.A. 75-2935b is hereby amended to read as follows: 75-
37 2935b. Salaries and other compensation of all persons who are within the
38 unclassified service of the Kansas civil service act, and which salaries and
39 other compensation are not fixed by statute, shall be subject to the ap-
40 proval of the governor and such salaries or other compensation shall not
41 be paid until approved by the governor. The provisions of this section
42 shall not apply to the salaries and other compensation of any officer or
43 employee when such salary or other compensation is specifically pre-

1 scribed by law, nor to officers and employees of elected state officials,
2 officers and employees under the jurisdiction of the state board of re-
3 gents, the executive secretary and other employees of the Kansas public
4 employees retirement system that are in the unclassified service as spec-
5 ified under K.S.A. 74-4908, and amendments thereto, officers and em-
6 ployees of Kansas, Inc. ~~and the Kansas technology enterprise corporation,~~
7 officers and employees under the jurisdiction of the supreme court, leg-
8 islative officers and employees or officers and employees of any agency
9 performing functions and duties primarily for the legislative branch.

10 Sec. 44. K.S.A. 75-3208 is hereby amended to read as follows: 75-
11 3208. (a) Except as provided in subsection (e) or (f) or as otherwise au-
12 thorized or provided by statute, no claim for expenses for any trip made
13 beyond the borders of the state by any appointive state officer or em-
14 ployee shall be paid by the state unless the trip has been approved as
15 provided by this section.

16 (b) Except as otherwise prescribed by a majority of the justices of the
17 supreme court, authority to grant written approval for any such trip by
18 an officer or employee of the judicial branch, or any agency thereof, is
19 vested in the judicial administrator or the judicial administrator's
20 designee.

21 (c) Except as otherwise authorized or provided by statute, authority
22 to grant approval for any such trip by a legislator or an officer or employee
23 of an agency of the legislative branch is vested with the legislative coor-
24 dinating council or an individual authorized by the legislative coordinating
25 council to grant written approval in the case of any such trip by an officer
26 or employee of an agency of the legislative branch.

27 (d) Except as otherwise prescribed by the officer, board or commis-
28 sion that appointed an agency head, authority to grant written approval
29 for any such trip by an officer or employee of the executive branch is
30 vested in such officer's or employee's agency head or the agency head's
31 designee.

32 (e) In cases involving such a trip by an agency head or by appointive
33 members of a board, commission or similar body that appoints an agency
34 head, no approval shall be required unless the appointing authority of the
35 agency head or the members of the board, commission or similar body,
36 as the case may be, requires such approval by the appointing authority.

37 (f) Such approval shall not be required for the payment of any claim
38 for expenses 50% or more of which are paid from moneys received from
39 ~~the Kansas technology enterprise corporation,~~ federal agencies or other
40 external sources.

41 (g) As used in this section, "agency head" means the chief adminis-
42 trative officer of a state agency or state institution.

43 Sec. 45. K.S.A. 76-770 is hereby amended to read as follows: 76-770.

1 (a) Each contract entered into by a state educational institution for the
2 acquisition of goods or services for a research and development activity
3 shall be exempt from the provisions of K.S.A. 75-3739 through 75-3744,
4 and amendments thereto, if the contract is financed 50% or more by
5 moneys received from ~~the Kansas technology enterprise corporation~~, fed-
6 eral agencies or other external sources.

7 (b) Nothing contained in article 32 of chapter 75 of the Kansas Stat-
8 utes Annotated shall be construed to limit or prescribe the conduct of
9 any in-state or out-of-state travel or to limit expense allowances for such
10 travel which is undertaken for and funded as a part of any research and
11 development activity of a state educational institution if such expense is
12 funded 50% or more by moneys received from ~~the Kansas technology~~
13 ~~enterprise corporation~~, federal agencies or other external sources. The
14 provisions of K.S.A. 75-3208, and amendments, thereto shall not apply to
15 any such travel.

16 (c) As used in this section:

17 (1) “Research and development activity” means any center of excel-
18 lence at a state educational institution, any research or development pro-
19 ject or activity at the state educational institution funded under a research
20 matching grant program of the ~~Kansas technology enterprise corporation~~
21 *department of commerce*, or any other sponsored research project at a
22 state educational institution; and

23 (2) “state educational institution” means a state educational institu-
24 tion as defined by K.S.A. 76-711 and amendments thereto.

25 Sec. 46. K.S.A. 74-5001a, 74-5050, 74-8102, 74-8103, 74-8105, 74-
26 8106, 74-8107, 74-8108, 74-8109, 74-8110, 74-8111, 74-8316, 74-8317,
27 74-8318, 74-8319, 74-8401, 75-2935b, 75-3208 and 76-770 and K.S.A.
28 2008 Supp. 74-520a, 74-5005, 74-50,133, 74-50,151, 74-50,156, 74-8101,
29 74-8104, 74-8131, 74-8132, 74-8133, 74-8134, 74-8135, 74-8136, 74-
30 99b03, 74-99b04, 74-99b09, 74-99b63, 74-99b66, 74-99c03 and 75-2935
31 are hereby repealed.

32 Sec. 47. This act shall take effect and be in force from and after its
33 publication in the statute book.